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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson West.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in title 2, division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation(s) at a public hearing on or after **April 13, 2006, at approximately 9:45 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on April 11, 2006.**

BACKGROUND/OVERVIEW

Section 85317 of the Political Reform Act ("Act")¹, states:

Notwithstanding subdivision (a) of Section 85306, a candidate for elective state office may carry over contributions raised in connection with one election for elective state office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state office.

Currently, regulation 18537.1 which interprets section 85317 defines "subsequent election for the same elective state office" as "the election to the next term of office immediately following the election/term of office for which the funds were raised." Historically, the existing regulation as written has always been interpreted to include both primary and general elections. However, the current regulation does not explicitly state that carry over is permissible where funds are raised for a primary election and will be "carried over" to the general election or carried over from a special primary election to a special general election. Therefore, regulation 18537.1 as currently written is silent on how money carried over from a primary election to a general election should be treated. This lack of specificity has caused some confusion among interested parties who are affected by this regulation.

The proposed amendments to regulation 18537.1 would expressly provide that "subsequent election for the same elective state office" also refers to: (1) the general election, which is subsequent to and for the same term as the primary election for which the funds were raised; or (2) the special general election, which is subsequent to and for the same term as the special primary election for which the funds were raised.

The proposed amendments to regulation 18537.1 also address how the carry over regulation would apply to the candidate who establishes a campaign bank account for an election but does not file the necessary documents to appear on the election ballot. The proposed amendment would specifically prohibit the carry over of campaign funds in this situation, but would require that the campaign funds be transferred with attribution pursuant to section 85306.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. These regulations will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. These regulations will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. These regulations will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code section 85317.

CONTACT

Any inquiries should be made to Chris Espinosa, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at www.fppc.ca.gov.

ADDITIONAL COMMENTS

After the hearing, the Commission may adopt the proposed regulations if they remain substantially the

¹ All references are to the Government Code unless otherwise noted.

same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulations before their adoption or repeal.

TITLE 4. STATE ATHLETIC COMMISSION

NOTICE IS HEREBY GIVEN that the State Athletic Commission (hereinafter "commission") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Junipera Serra State Office Building located at 320 West Fourth Street, 1st Floor Conference Room, Los Angeles, California, at 9:30 a.m., on April 26, 2006. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the commission at its office not later than 5:00 p.m. on April 24, 2006 or must be received by the commission at the hearing. The commission, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 18611 and 18763 of the Business and Professions Code, and to implement, interpret or make specific Section 18765 of said Code, the commission is considering changes to Division 2 of Title 4 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend section 523.

Business and Professions Code section 18765 authorizes the commission to prescribe the length and duration of professional and amateur kickboxing and martial arts contents, the weight classifications, the manner in which the contestants engage in such contests, and such further safeguards and conditions as shall insure fair, sportsmanlike, and scientific contents.

Existing Rule 523(a) references Rules 311 through 313 regarding ring requirements for kickboxing contents. This proposal would correct the numbers to reflect the correct sections (Rules 310 through 312).

Existing Rule 523(b) prescribes the specifications for the ring to be used in all martial arts contests that are not kickboxing contests. It provides for a ring to be enclosed by a fence. This proposal would make clarifying changes to those requirements and would also authorize a ring to be enclosed by ropes, as an alternative to a fence, and specifies the requirements for thickness, padding, spacing, and number of ropes.

FISCAL IMPACT ESTIMATES

Fiscal impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: At the present time the competition enclosure is limited to a cage only. The addition of the ring could double the number of events held in our State. This could have a significant financial impact on the State Athletic Commission.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

and

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses:

The commission has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California, although it is expected to result in an increase in martial arts shows in California.

Cost Impact on Representative Private Person or Business:

The commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposal gives promoters the choice of using a fence or ring ropes.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The commission has determined that the proposed regulations would not affect small businesses because the regulations permit the promoter to choose whether

to enclose the ring with a fence or with ropes for martial arts contests that are not kickboxing contests.

CONSIDERATION OF ALTERNATIVES

The commission must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The commission has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the State Athletic Commission at 1424 Howe Avenue, Suite 33, Sacramento, California 95825.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Armando Garcia
Address: 1424 Howe Avenue, Suite 33
Sacramento, CA 95825
Telephone No.: (916) 263-2195
Fax No.: (916) 263-2197
E-Mail Address: armando_garcia@dca.ca.gov

The backup contact person is:

Name: Sal Barajas
Address: 1424 Howe Avenue, Suite 33
Sacramento, CA 95825
Telephone No.: (916) 263-2195
Fax No.: (916) 263-2197
E-Mail Address: sal_barajas@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.dca.ca.gov/csac.

TITLE 8. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Division of Occupational Safety and Health of the Department of Industrial Relations is proposing to take the action described in the Informative Digest/Policy Statement Overview (Hereinafter "the Proposed Rulemaking"). Any person interested may present statements or arguments orally or in writing relevant to the Proposed Rulemaking at a hearing to be held in the Training Room at 1515 Clay Street, 13th Floor in Oakland, California, on April 24, 2006, between 9:00 a.m. and 11:00 a.m.

The facilities for the public hearing are accessible to persons with mobility impairments, and other disability accommodations are available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer

disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

Written Comment Deadline: Interested persons may submit written or verbal comments at the public hearing. Persons who are unable or who do not wish to attend the public hearing may mail or FAX comments to:

Chris Grossgart, Staff Counsel
DOSH Legal
1515 Clay Street, 19th Floor
Oakland, CA 94612
FAX: (510) 286-7039

The official record of the rulemaking proceeding will be closed at the conclusion of the public hearing. The Division will not consider written comments received after the close of the public hearing unless an extension of time in which to receive written comments is announced at the public hearing.

The Division may thereafter adopt the Proposed Rulemaking substantially as described below or may modify it if such modifications are sufficiently related to the original text. With the exception of technical, grammatical or other non-substantive changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to the Proposed Rulemaking or who request notification of any changes to the Proposed Rulemaking.

AUTHORITY AND REFERENCE

Authority cited: Sections 60.5, 6308, 6501, 6502 and 6503, Labor Code. Reference: Sections 6500, 6501, 6502, 6503, 7373 and 7382, Labor Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to Labor Code sections 60.5 and 6308, the Division of Occupational Safety and Health ("the Division") of the Department of Industrial Relations is charged with the administration and enforcement of the provisions of the California Occupational Safety and Health Act, commencing with Labor Code section 6300, as well as other provisions of law impacting upon the health and safety of employees in the State of California.

Pursuant to California Labor Code Sections 6500 through 6503 and Title 8, California Code of Regulations ("8 CCR") Sections 341 and 341.1, employers must obtain permits from the Division for a series of

listed high-hazard work activities. The permit application process notifies the Division of the existence of high-hazard jobsites and gives the Division an opportunity to interact with the permit applicant via a permit safety conference so that information can be exchanged and other measures can be taken to increase the safety of the permitted work activities. The permit application process is proactive, and promotes compliance with safety regulations on jobsites where a permit has been issued. The Division has initiated this rulemaking to revise the current system for issuing safety permits for certain types of hazardous work, mainly in the construction industry.

I. Section 341. Permit Requirements.

The Division proposes a substantial reworking of its permitting process. It proposes to delete the text of existing Section 341 to replace it with new language explaining: (a) the Scope and Application of new Section 341; (b) the definitions of terms used in the Proposed Rulemaking; (c) the basic permitting requirements; (d) work activities subject to permitting requirements and the types of permits required for specific activities; and (e) exceptions to the permitting requirements.

Section 341(a): Scope and Application.

New subsections (a)(1) through (a)(4) provide a brief overview or roadmap of the Division's permit program, since they discuss the scope of the permit regulations, the purpose of the permit process and the types of permits issued. These subsections serve as an introduction to the permitting process for the regulated public.

Section 341(a)(1).

Section 341(a)(1) specifies the subjects covered in Article 2 (Subchapter 2 of Chapter 3.2 of 8 CCR) governing permits. Specifically, Subsection (a)(1) indicates that Article 2 will outline the work activities which require permits, describe what permit holders must do to comply with permit requirements, and specify the types of permits available and how to apply for a permit.

Section 341(a)(2).

This subsection explains that the purpose of a permit is to provide notice to the Division when an employer will undertake permit-required activity. This provision allows the Division to help ensure that the employer performs the permitted work safely.

Section 341(a)(3).

Subsection (a)(3) lists the two types of permits: Annual Permits and Project Permits. Subsection (a)(3) indicates that definitions for both types of permit will appear in Section 341(b) and further details regarding the permits will be set forth in subsections (c), (d) and (e).

Section 341(a)(4).

Subsection (a)(4) indicates that the permit-application process is explained in Section 341.1.

Section 341(b): Definitions.

Section 341(b) would set forth definitions of ten terms that appear in the Proposed Rulemaking, as follows:

- (1) An "Annual Permit" is a permit that would allow an employer to conduct a specified activity at any jobsite for a period of one year.
- (2) The Proposed Rulemaking would include "Climbing a fixed tower crane" among the activities for which a permit is required. As defined in Subsection (b)(2), that term means altering the height of the revolving section of a tower crane by adding or removing tower sections with the use of a climbing frame.
- (3) To ensure that members of the regulated public know when they are engaged in activities that require a permit, Subsection (b)(3) explains that to "engage in a permit-required activity" means either having employees who actually perform that activity or acting as a project administrator at a site where a permit-required activity is being performed.
- (4) Section 341(e) excepts "emergency repair work to underground facilities" from the permit requirements of the Proposed Rulemaking. To ensure that the regulated public understands what the scope of this specific exception is, Subsection (b)(4) defines "emergency repair work to underground facilities" as the unscheduled repair or replacement of pipes or other underground structures for the purpose of protecting life or property.
- (5) Since a permit is required to perform specified activities on any building or other structure more than 36 feet in height, Section (b)(5) clarifies that a structure's "height" is the distance from the top of the structure, including any parapet walls, mechanical rooms or other penthouse structures, to the lowest point of the surrounding grade or ground level below. Mechanical screens, antennas, chimneys, flag poles, and similar attachments are not to be considered in determining the height of a structure.
- (6) Subsection (b)(6) would specify that to "hold" a permit means acquiring a valid permit *prior* to the start of permitted work. This definition is necessary to clarify when employers need to obtain a permit. Employers must also obtain permits for the use of a diesel engine underground in a mine or tunnel prior to placing an engine.

- (7) A "permit-required activity" is an activity described in Section 341(d) for which a permit is required by Article 2.
- (8) The term "Project Administrator" refers to persons or entities like general contractors, prime contractors, owners/builders, joint ventures, and construction managers who have overall onsite responsibility for the planning, quality, management or completion of the erection or demolition of a structure.
- (9) A "Project Permit," as compared to an "Annual Permit", is a permit that allows work at a specific location on a specific project.
- (10) Finally, a "structure" is any creation by human activity of a piece of work, formation, or series of parts joined together, including but not necessarily limited to: buildings, falsework, scaffolding, bridges, elevated highways, chimneys, dams, powerhouses, smokestacks, silos, billboards, outdoor signs, transmission or communication towers, and tanks or tank towers.

Section 341(c): Basic Permit Requirement.

Proposed subsection (c) identifies the two types of permits, the Project Permit and the Annual Permit, and sets forth the requirements for each.

Section 341(c)(1)(A).

This subsection would state that a Project Permit must be issued for the project before work can begin.

Section 341(c)(1)(B).

This subsection would state that only one Project Permit is required for a particular project, as long as the permit holder continues to act as project administrator.

Explanatory NOTE following Section 341(c)(1)(B).

A new Note would direct readers to new subsections (f) and (g) of Section 341.1 of Article 2 for additional details regarding the scope of Project Permits. Subsection (f) contains a list of permit-required activities that may be included in a single Project Permit; and subsection (g) contains conditions for issuance of a single Project Permit for erecting, climbing and dismantling of a fixed tower crane.

Section 341(c)(2)(A).

This subsection would specify that the issuance of a Project Permit does not relieve another entity required to hold an Annual Permit from that obligation. Likewise, a Project Permit holder who engages in permit-required activities at another project, but does not act as Project Administrator, would be required to obtain an Annual Permit for work at that other site.

Section 341(c)(2)(B).

This subsection would specify that an Annual Permit must be obtained once per year. It also provides that the permit holder must notify the Division prior to com-

mencement of any new work subject to the requirements of the Proposed Rulemaking.

Section 341(d): Work Activities Subject to Permit Requirements and the Types of Permits Required to Conduct the Activities.

Proposed subsection (d) would specify the work activities that would require permits under the Proposed Rulemaking.

Section 341(d)(1).

Proposed subsection (d)(1) would identify the erection of a fixed tower crane as a work activity for which the contractor erecting, climbing or dismantling the crane must hold a Project Permit prior to the start of any work, even though that contractor may not generally be the Project Administrator.

Explanatory NOTE No. 1 following Section 341(d)(1).

Note No. 1 would direct readers to Section 341.1 of the Proposed Rulemaking for additional details on Project Permit requirements for fixed tower cranes.

Explanatory NOTE No. 2 following Section 341(d)(1).

Note No. 2 would direct the reader to Section 344.70 of 8 CCR. That section requires a different permit for the *operation of a fixed tower crane, once it is erected.*

Section 341(d)(2).

Proposed Subsection (d)(2), adapted from existing subsection (a)(4), identifies the use of diesel engines in mines and tunnels as another activity for which a Project Permit is required, even though that applicant may not be the Project Administrator on the jobsite. The permit must be obtained prior to placing the diesel engine underground.

Section 341(d)(3).

Proposed subsection (d)(3), adapted from existing subsection (a)(3), identifies the demolition or dismantling of buildings or structures more than 36 feet in height as an activity requiring a Project Permit. Moreover, that section would also require that any other employers directly engaged in demolition or dismantling activities hold an Annual Permit.

Section 341(d)(4)(A)–341(d)(4)(E).

Proposed subsection (d)(4) lists regulated work activities generally performed during the construction of a building more than three stories or 36 feet in height. The work activities specific to construction are set forth in proposed subsections (d)(4)(A) through (d)(4)(E); the activities specific to demolition are already specified in proposed subsection (d)(3) above.

Section 341(d)(4)(A).

This subsection would specify “erection and placement of structural steel or structural members made of materials other than structural steel” as activity subject to permit requirements.

Explanatory NOTE following Section 341(d)(4)(A).

This Note would explain that reinforcing bars used in reinforcing concrete construction are not considered structural steel or members for the purposes of Section (d)(4)(A).

Section 341(d)(4)(B).

This subsection would specify installation of metal decking or decking made of substitute materials as a work activity subject to permit requirements.

Section 341(d)(4)(C).

This subsection would specify installation of curtain walls, precast panels, or fascia as a work activity subject to permit requirements.

Section 341(d)(4)(D).

This subsection would specify forming and placement of concrete structures or concrete decks on steel structures as a work activity subject to permit requirements.

Section 341(d)(4)(E).

This subsection would specify installation of structural framing, including roof framing, and installation of panelized roof systems as work activities subject to permit requirements.

Explanatory NOTE after Section 341(d)(4)(E).

This Note would explain that interior partitions are not considered part of “structural framing” for the purposes of Section (d)(4)(E).

Section 341(d)(5).

Proposed subsection (d)(5) would set forth two work activities for which an employer must obtain *either* an Annual Permit or a Project Permit.

Section 341(d)(5)(A).

Proposed subsection (d)(5)(A) would identify the construction of excavations or trenches 5 feet or deeper, into which a person is required to descend, as a work activity for which an Annual Permit or a Project Permit is required.

Explanatory NOTE following Section 341(d)(5)(A).

This Note would clarify the meaning of “descend” in proposed subsection (d)(5)(A) by defining the term as entry into any part of the excavation once it has attained a depth of 5 feet or more.

Section 341(d)(5)(B).

Proposed subsection (d)(5)(B) would identify the erection and placement of scaffolding, vertical shoring or falsework as the second work activity subject to the requirements of new subsection (d)(5).

Section 341(e): Exceptions to Permit Requirements.

Proposed subsection (e) would identify work sites and types of employers that have historically been exempted from permit requirements.

Section 341(e)(1).

Proposed subsection (e)(1) is taken verbatim from existing subsection (b)(1) pertaining to exempt governmental bodies, with additional language to explicitly provide that the United States government, its officers and agencies are exempt from the permit requirements of the Proposed Rulemaking.

Section 341(e)(2).

Proposed subsection (e)(2) is taken verbatim from existing subsection (b)(2) pertaining to exempt public utilities, without modification.

Section 341(e)(3).

Proposed subsection (e)(3) is taken verbatim from existing subsection (b)(3) pertaining to exempt emergency repair work, without modification. "Emergency repair work to underground facilities" would now be defined in subsection (b)(4).

Section 341(e)(4).

Subsection (e)(4) is taken verbatim from existing subsection (b)(4). It pertains to excavations and trenches into which a person is not required to descend, either during the excavation process or during its final use.

Section 341(e)(5).

Subsection (e)(5) is taken verbatim from existing subsection (b)(5) and would exempt excavation for the construction of graves from the permitting process.

Section 341(e)(6).

New subsection (e)(6) is adapted from existing subsection (b)(6), pertaining to swimming pools. The proposed change would add "excavation for" to the existing language "construction of swimming pools".

Explanatory NOTE following Section 341(e).

Pursuant to Labor Code section 6500(b), this new Note would explain that the work activity of constructing motion picture, television, or theater stages and sets does not require a permit unless the requirements set forth in that Section 6500(b) are met.

II. Section 341.1. Issuance of Permits.

Because of the reformulation of the permitting process proposed in Section 341, it is necessary to make numerous revisions to Section 341.1. Some of the proposed revisions are minor and improve clarity without affecting substance; other revisions make substantive changes. The Division proposes to delete the existing language of Section 341.1 in its entirety and to replace it with new language which would set forth the requirements for obtaining a Project Permit or Annual Permit when required by Section 341.

Section 341.1(a): Where to Submit Permit Applications.

Proposed subsection (a)(1) would require that all applications for Project Permits be submitted to the Division's district office that has geographical jurisdiction over the project site.

Section 341.1(a)(2).

Proposed subsection (a)(2) would require that all Annual Permits be obtained from the Division's office in the Cal/OSHA district where the applicant's headquarters are located. If an applicant for an Annual Permit has no California headquarters, that applicant must submit the application to the Division's headquarters in Oakland.

Explanatory NOTE following Section 341.1(a)(2).

This explanatory note, adapted from existing subsection (a), tells the permit applicant where forms are available and generally where district offices can be located.

Section 341.1(a)(3).

Proposed subsection (a)(3) would require that all permits for the use of diesel engines in mines and tunnels be obtained from the nearest district office of the Division's Mining and Tunneling Unit.

Explanatory NOTE following Section 341.1(a)(3).

This explanatory note would inform applicants where to obtain applications for underground diesel permits.

Section 341.1(b): Application Requirements Applicable to All Permit Applications.

The proposed changes to subsection (b) would set forth the information which all permit applicants must include in their applications.

Section 341.1(b)(1).

Proposed subsection (b)(1) would list the provisions to be included on all permit applications required by this section. For example, an applicant would be required to provide all the customary contact information on an application. In addition, the applicant would have to provide the number of a valid license issued from the Contractors State License Board, and must show proof of workers' compensation coverage, if applicable. Applicants must also attach a check or money order to cover applicable fees. A note following subsection (b)(1) states that the Division is not equipped to accept cash or credit card payments. Finally, the applicant must certify that he or she has knowledge of applicable occupational safety and health standards and will comply with such standards and any other lawful orders of the Division.

Section 341.1(b)(2).

Proposed subsection (b)(2) would set forth additional requirements for project permit applications. In addition to the information required in Subsection (b)(1), applicants for project permits would have to provide a

jobsite telephone number, the specific location of the job site, and the activity to be covered by the permit.

Section 341.1(c).

Section 341.1(c) would be re-titled “Additional Application Requirements Applicable to Permits for Underground Use of Diesel Engines in Mines and Tunnels, and to Permits for Fixed Tower Cranes” to reflect its new content.

Section 341.1(c)(1).

Currently, Section 341.1(b)(1) describes the special permit provisions for underground use of diesel engines. The Proposed Rulemaking would make minor grammatical and stylistic changes to make the section clearer. For example, a portion of the title sentence, “Special provisions” would be deleted. In the second sentence of new subsection (c)(1), the proposal would delete the words “in work” from the existing phrase “for the underground use of diesel engines in work in mines and tunnels”.

Section 341.1(c)(1)(A).

This subsection would require a permit application for the underground use of diesel engines in mines and tunnels to provide complete details and specifications of each diesel engine and exhaust purifying device.

Section 341.1(c)(1)(B).

This subsection would require a permit application for the underground use of diesel engines in mines and tunnels to provide the location of the mine or tunnel and details of how the diesel equipment is to be used.

Section 341.1(c)(1)(C).

This subsection would require a permit application for the underground use of diesel engines in mines and tunnels to provide the length, cross-section, and layout of the underground haulage ways.

Section 341.1(c)(1)(D).

This subsection would require a permit application for the underground use of diesel engines in mines and tunnels to provide the maximum number and brake horsepower of diesels to be operated in any aircourse.

Section 341.1(c)(1)(E).

This subsection would require a permit application for the underground use of diesel engines in mines and tunnels to provide ventilation plans, including direction of airflow, fan capacity, duct sizes and auxiliary ventilation.

Section 341.1(c)(1)(F).

This subsection would require a permit application for the underground use of diesel engines in mines and tunnels to provide dates when the proposed diesel use is to begin and the dates and locations where a representative of the Division may conduct tests of the diesel ex-

haust gases and mechanical conditions affecting exhaust gas emission.

Section 341.1(c)(2).

This section relates to permits for the erection climbing and dismantling of fixed tower cranes. It would require applicants for a permit to erect, climb or dismantle a fixed tower crane to provide specified additional information on their applications. For example, Section (c)(2)(A) requires the applicant to certify that a Division-licensed tower crane certifier or surveyor or safety representative of the manufacturer or distributor of the crane will be present during erection, climbing and dismantling operations to assure safe practices. A note following this subsection would reference additional requirements in 8 CCR applicable to tower crane permits.

In addition, Section (c)(2)(B) would require the applicant to notify the Division of the date and time of initial erection at the site, completion of erection and commencement of operation, climbing of the tower crane and dismantling of the tower crane. Such notification must be received at the district office which issued the permit at least 24 hours prior to the activity which is the subject of the notification.

Section 341.1(d): Safety Conference for Project Permits and Annual Permits.

Existing subsection (c) describes the safety conference that is held in the Division’s district office as part of the Project Permit or Annual Permit process. The Proposed Rulemaking would renumber existing Subsection (c) as Subsection (d) and re-title it “Safety Conference for Project Permits and Annual Permits”.

Section 341.1(d)(1).

This section would give the Division the authority to conduct an investigation, a hearing and/or a safety conference in connection with the issuance of a permit. The proposed language is essentially a modification of existing requirements. For example, the word “employer” which appears in existing Subsection (c) would be changed to “permit applicant”. The adjective “healthful” would be added to modify the existing nouns “employment” and “place of employment”. As non-substantive change, the adjective “safe” would be preserved, in a new location at the end of the sentence.

Section 341.1(d)(2).

New subsection (d)(2) would direct the Division to make a reasonable effort to accommodate the scheduling needs of the applicant, and to furnish the applicant with a list of information or items the applicant must bring to the permit safety conference.

Section 341.1(d)(3).

New subsection (d)(3) would direct the Division to hold the safety conference at a district office or at another designated location which is convenient to the parties. The safety conference would be open to the appli-

cant, representatives of the owner of the project, contracting agencies, and the applicant's employees and their representatives. The permit applicant would be required to notify all such parties of the safety conference, and to provide proof of such notification to the Division.

Section 341.1(e): General Requirements Applicable to Issuance of All Permits.

Subsection (e)(1) of the Proposed Rulemaking would allow the Division to issue a permit to a qualified applicant upon filing of a completed application form and compliance with all the prerequisites set forth therein, including payment.

Subsection (e)(2) would specify the information that will appear on a permit issued by the Division, including (A) the name of the permit holder; (B) the permit number; (C) the type of permit issued; (D) the date through which the permit shall remain valid; (E) payment information; (F) names of the Division staff involved in reviewing the application; and (G) the activities permitted by the permit.

Subsection (f): Issuance of Project Permits for All Projects Other Than Erection of Tower Cranes.

The Proposed Rulemaking would revise existing subsection (d) and renumber it as subsection (f). As revised, Subsection (f) would present the general requirements for Project Permits that may be issued to Project Administrators. Subsection (f) would state that a Project Administrator need obtain only one Project Permit, and would specify the work activities necessitating a single permit in subsection (f)(1) through (f)(5).

Subsections (f)(1) through (f)(4) describe multiple work activities that may be included in one Project Permit when the work is done at the same jobsite. For example, Subsection (f)(1) requires a single Project Permit for the construction or demolition of a building or structure over 36 feet high and the associated excavation work at the same site. Subsection (f)(2) requires a single Project Permit for the construction of specified structures and the erection of attendant scaffolding. Under Subsection (f)(3) a Project Administrator would need a single Project Permit for any project of demolition of specified structures at one site. Subsection (f)(4) would require taking out a single Project Permit for all or any combination of the activities listed in Subsections (f)(1), (f)(2) and (f)(3) at a single jobsite.

New Subsection (f)(5) would require a single permit for two or more projects when the work is part of the same contract but is located in different Division districts, as long as the work is the installation of essentially identical structures.

Section 341.1(f)(5)(A).

New subsection (f)(5)(A) would list common "essentially identical structures" that would be subject to the

provisions of Subsection (f)(5), namely: silos, outdoor signs, tanks or tank towers, and transmission or communication towers.

Section 341.1(f)(5)(B).

New subsection (f)(5)(B) would list common structures that may appear to be identical or nearly identical in basic design, but which are specifically excepted from the provision for Project Permits for more than one jobsite. Such projects include bridges, dams, elevated highways, buildings and tower cranes.

Section 341.1(f)(5)(C).

New subsection (f)(5)(C) would provide that the Division's district office where the first project scheduled to be commenced is located will issue a Project Permit for more than one jobsite.

Section 341.1(f)(5)(D).

New subsection (f)(5)(D) would require a Project Administrator who has obtained a Project Permit for more than one jobsite to fulfill the notification requirements for Annual Permits, as set forth in Subsection (g)(2)(C), below. Such a requirement is necessary because allowing Project Permits for more than one jobsite, without separate safety conferences for each jobsite, would allow work to go on without the Division's knowledge, and would deprive both the Division and the permit holder of the benefit of a site-specific safety conference.

Subsection (g): Issuance of Project Permits for Fixed Tower Cranes.

New subsection (g) is adapted from existing subsection (e). Existing subsection (e) explains that only one permit is necessary for the erection, climbing and dismantling of a fixed tower crane. A proposed amendment would add a title sentence that highlights the fact that such permits are Project Permits, as required in Section 341(c)(3). A second proposed amendment would require separate permits to be taken out for erecting, climbing or dismantling a tower crane, if the same employer does not perform all three functions.

Subsection (h): Issuance of Annual Permits.

This section would address the issuance of Annual Permits.

Section 341.1(h)(1).

Subsection (h)(1) would authorize the Division to issue an Annual Permit upon the applicant's demonstration that it has an adequate safety program that has been developed for the work activity covered by the permit. This subsection would also permit the Division to place conditions on the Annual Permit.

Explanatory NOTE following subsection (h)(1).

The new proposed explanatory Note following new subsection (h)(1), gives the Division the flexibility to

stagger the expiration dates in the first year following the effective date of the Proposed Rulemaking.

Section 341.1(h)(2)(A).

New subsection (h)(2)(A) would provide that an Annual Permit is valid only if the permitted activity is performed by the entity named in the permit.

Section 341.1(h)(2)(B).

New proposed subsection (h)(2)(B) would require the permit holder to notify the Division at least 24 hours prior to performing the activity which is the subject of the notification. Notification could be by mail, personal delivery, fax transmission or electronic mail, and shall provide the project location and date and time work is to commence.

Section 341.1(h)(3).

New subsection (h)(3) would allow the renewal of annual permits by mail.

MORE INFORMATION

The full text of the Proposed Rulemaking, and all information upon which the Proposed Rulemaking is based, including an initial statement of the reasons for the Proposed Rulemaking, are available upon request. Inquiries concerning the Proposed Rulemaking may be directed to the agency contact persons:

Chris Grossgart, Staff Counsel (Primary Contact)
Michael D. Mason, Chief Counsel (Secondary Contact)
Department of Industrial Relations
Division of Occupational Safety and Health
Legal Unit
1515 Clay Street, 19th Floor
Oakland, CA 94612
(510) 286-7348

The Division's rulemaking file for the Proposed Rulemaking is open for public inspection Monday through Friday, excluding State holidays, from 9:00 a.m. to 4:00 p.m., at 1515 Clay Street, 19th Floor, in Oakland, California. Persons desiring a copy of the Division's Final Statement of Reasons for the Proposed Rulemaking, once it has been prepared, should submit a written request to the agency contact person, named above. Alternatively, this Notice, the Division's Initial Statement of Reasons, the actual text of the Proposed Rulemaking, documents relied upon (if any), and the Final Statement of Reasons are available on the internet at www.dir.ca.gov/DIRRulemaking.html.

COSTS OR SAVINGS OF THE PROPOSED RULEMAKING

Costs or Savings to State Agencies: The Division has determined that the Proposed Rulemaking will result in no costs or savings to state agencies.

Impact on Housing Costs: The Proposed Rulemaking will have no effect on housing costs in California.

Impact on Businesses: The Proposed Rulemaking will not result in a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The aggregate fee increase spread out among all the Division's permit holders will result in a *per capita* increase of less than four dollars.

Cost Impact on Private Persons or Entities: The Proposed Rulemaking will not result in additional costs to a private persons or businesses. There are some indications that there will be savings to private persons or businesses. Permit applicants other than Project Administrators, who have had to schedule and attend permit conferences to obtain permits for multiple projects around the State have reported significant time and travel costs. Under provisions of the Proposed Rulemaking, such permit applicants will obtain an Annual Permit at one permit conference in the Division's District Office closest to the business address of the applicant. The specialty contractor will then be able to renew the permit annually by mail.

Costs or Savings in Federal Funding to the State: The Proposed Rulemaking will not result in costs or savings in Federal funding to the State.

Costs or Savings to Local Agencies or School Districts: No costs to local agencies or school districts are required to be reimbursed. Sections 341 and 341.1 specifically exempt local governmental agencies and school districts from permit requirements.

Impact on the Creation of Jobs or Businesses: The Proposed Rulemaking will not have a significant impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of existing businesses in California.

Other Nondiscretionary Costs or Saving Imposed on Local Agencies: The Proposed Rulemaking does not impose nondiscretionary costs or savings on local agencies. As indicated above, Sections 341 and 341.1 specifically exempt local governmental agencies and school districts from permit requirements.

DETERMINATION OF MANDATE

The proposed changes to Sections 341 and 341.1 do not impose any kind of mandate on local agencies or school districts. The Division has determined that the

proposed changes do not impose a mandate requiring reimbursement by the State pursuant to Part 7 (Sections 17500 through 17616) of Division 4 of the California Government Code because the proposed changes to the existing regulations do not constitute a new program or higher level of service of an existing program within the meaning of Section 6 of Article XXIII B of the California Constitution.

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a State of California policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the State of California. See County of Los Angeles v. State of California (1987) 43 Cal 3d 46.

The proposed changes to Sections 341 and 341.1 do not require a local agency to carry out the governmental function of providing services to the public.

DOCUMENTS RELIED UPON

Fluor Daniel, Inc. California Occupational Safety and Health Appeals Board Docket No. 90-948 Decision After Reconsideration (November 20, 1991).

This document is available for review Monday through Friday from 9:00 AM to 4:30 PM at the office of the Division’s Research & Standards Development Unit, 2100 E. Katella Avenue, Suite 100, Anaheim, California 92806 (714) 939-8484.

DOCUMENTS INCORPORATED BY REFERENCE

No documents are incorporated by reference in this proposed action.

REASONABLE ALTERNATIVES

The Division must determine that no reasonable alternative considered during rulemaking or otherwise identified and brought to the Division’s attention would be more effective in carrying out the purpose that underlies the proposed action, or would be as effective as and less burdensome to affected small businesses than the proposed action.

EFFECT ON SMALL BUSINESS

The Proposed Rulemaking would not affect small business, as it merely modifies existing Division policies for permitting, and would not create additional fees.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

TITLE 10. MANAGED RISK MEDICAL INSURANCE BOARD

NOTICE OF PROPOSED REGULATIONS

R-2-05

NOTICE IS HEREBY GIVEN that the Managed Risk Medical Insurance Board (MRMIB) proposes to permanently adopt changes to Chapter 5.8 of Title 10 of the California Code of Regulations.

The changes are focused on implementing SB1196 which requires changes to the current HFP regulations to reflect the authority of MRMIB to receive and process National School Lunch Program (NSLP) applications and any supplemental forms forwarded from the Medi-Cal program.

MRMIB has scheduled a public hearing in Sacramento, California, for April 26, 2006 from 1:00 p.m. to 2:00 p.m. at the following address:

1000 G Street, Suite 450
Front Conference Room
Sacramento, CA 95814

It is requested, but not required, that any person wishing to present testimony should register at 1:00 p.m. on April 26, 2006. The hearing will be adjourned immediately following the completion of oral and written testimony presentations. This public hearing is for the purpose of considering regulations. The MRMIB upon its own motion, or at the instance of any interested persons, may adopt the proposals substantially as presented.

The MRMIB may modify the regulations after public hearing and adopt the modified regulations if the regulations as modified are sufficiently related to the text made available to the public, so that the public was adequately placed on notice that the regulations as modified could result from the proposed regulatory action. The text of any regulation as modified will be mailed to all persons who testify or submit written comments at the public hearing, submit written comments during the public comment period, and all persons who request notification, at least 15 days prior to the date on which the MRMIB adopts the regulations. A request for a copy of any regulations as modified should be addressed to Dennis Gilliam at the address below.

Any person interested may submit written comments relating to the proposals in writing to:

Managed Risk Medical Insurance Board
Attn: Dennis Gilliam
1000 G Street, Suite 450
Sacramento, CA 95814

Comments relating to the proposals may also be faxed to Dennis Gilliam at (916) 327-6580 or e-mailed to dgilliam@mrrib.ca.gov.

Written comments must be received by 5:00 p.m. on April 26, 2006. Written comments received after April 26, 2006 may not be assured of consideration unless otherwise expressly stated by the hearing officer. It is requested, but not required, that persons making oral presentations at the hearing provide a written version of their comments at the conclusion of their remarks.

The public hearing facility is accessible to persons with mobility impairments. If you are in need of a language interpreter, including sign language, at the hearing, or have other special needs, please notify MRMIB at least two weeks prior to the hearing.

These regulations were approved as emergency regulations by the Office of Administrative Law and became effective on February 9, 2006. The MRMIB is required to complete the rulemaking process and submit a final rulemaking file to the Office of Administrative Law on or before 180 days from the effective date of these regulations, as authorized by SB 1196. Upon submission of the final rulemaking file the Office of Administrative Law will have 30 calendar days to approve or disapprove the final regulations. The regulations will stay in effect until that decision is made.

An Informative Digest/Policy Statement Overview for the proposed regulation changes, including fiscal impact statements and other required determinations are included below. These regulations are written in plain English. An Initial Statement of Reasons for the proposed action has been prepared. These, and copies of the proposed regulations, may be requested by telephone, or by writing to the above address. In addition, the Board has available a rulemaking file which contains all the information upon which the proposed regulations are based. This file is available for public perusal at the MRMIB office (see address above), during normal office hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. The pertinent documents (proposed regulations and Initial Statement of Reasons) pertaining to this rulemaking can be obtained on MRMIB's website at www.mrmib.ca.gov. The final Statement of Reasons can be obtained when available, after the public hearing and final adoption, by contacting Dennis Gilliam at (916) 324-4695 or dgilliam@mrrib.ca.gov.

Please address questions and requests for available information concerning the proposed regulations to Dennis Gilliam at (916) 324-4695 or Donald Minnich at (916) 327-7978 at the address listed above. Either person can answer questions regarding the substance of the proposed regulations or can direct the question to the appropriate person within the Board. Dennis Gil-

liam is designated as the small business advocate contact person for the Board.

AUTHORITY AND REFERENCES

Authority: Sections 12693.21, 12693.75 and 12693.755, Insurance Code. Section 14005.41, Welfare and Institutions Code.

Reference: Sections 12693.02, 12693.21, 12693.43, 12693.46, 12693.70, 12693.71, 12693.73, 12693.74, 12693.75 and 12693.755, Insurance Code.

INFORMATIVE DIGEST

Existing Laws and Regulations

Insurance Code Section 12693, et seq., established the Healthy Families Program (HFP) in 1997, under the direction of the Managed Risk Medical Insurance Board (MRMIB).

Title 10, California Code of Regulations, Chapter 5.8 implements the Healthy Families Program.

Policy Statement Overview

In August 1997, The Federal Government established a new program, the State Children's Health Insurance Program (SCHIP), by adding Title XXI to the Social Security Act. The purpose of the program is to provide health services to uninsured, low-income children. The program is targeted to serve children whose family's income, although low, is too high to qualify for the Title XIX Medicaid Program, called Medi-Cal in California. In 1997, the Legislature passed, and the Governor signed AB 1126, (Chapter 623, Statutes of 1997). Under that law, California has taken the option of both expanding its Medi-Cal Program and establishing a new stand alone children's health insurance program, the Healthy Families Program (HFP). The Department of Health Services (DHS) administers the Medi-Cal expansion. The Managed Risk Medi-Cal Insurance Board (MRMIB) administers the HFP. The basic structure of the HFP is set out in regulations approved by the Office of Administrative Law, (Chapter 5.8 of Title 10 of the California Code of Regulations).

Senate Bill 1196 (Chapter 729, Statutes of 2004), directed the MRMIB to accept, process and determine eligibility for the HFP using the National School Lunch Program (NSLP) Health Coverage Applications and supplemental forms.

Currently, applicants apply for HFP in one of two ways: by submitting a mail-in Joint Medi-Cal/HFP application, or with the assistance of a Certified Application Assistant (CAA) using the online Health-e-App (an electronic replica of the mail-in joint Medi-Cal/HFP application).

SB 1196 includes the following provisions:

- With the applicant's consent, the NSLP application will be forwarded to the Medi-Cal program, administered by the DHS, for a no-cost Medi-Cal eligibility determination. The NSLP application, along with any supplemental forms and disclosures shall be considered as a Medi-Cal application. The DHS shall deem an applicant who submits a NSLP application to have met the income documentation requirements for participation in the no-cost Medi-Cal program, any child who is less than six years of age and who has been determined to be eligible for free meals through a federally funded program using the NSLP application.
- On and after July 1, 2005, the Medi-Cal Program will be authorized, with the applicant's consent, to forward those NSLP applications, and any supplemental forms for children who are not eligible for no-cost Medi-Cal, to the HFP administrative vendor for eligibility determination.
- The HFP will accept the NSLP application forwarded by the Medi-Cal Program to be an application for determination of HFP eligibility.

Implementing SB1196 will require changes to the current HFP regulations to reflect the authority of MRMIB to receive and process NSLP applications and any supplemental forms forwarded from the Medi-Cal program.

Subsection 2699.6600(a)(6) is amended to add: "Alternatively, the program shall utilize the school lunch application and any supplemental forms received pursuant to Section 14005.41 of the Welfare and Institutions Code to make an eligibility determination." This is included pursuant to SB 1196, which requires MRMIB/HFP to accept the form. The statute recognizes that a county will need to collect additional information in order to maintain uniform standards for all Medi-Cal applicants. This subsection also updates the most current version Medi-Cal/HFP joint application, the April, 2004 revision. This form is updated periodically to add annual income eligibility charts. There are no changes to the form questions.

Subsection 2699.6600(d) is adopted to add the forms HFP can use in the process of eligibility determination for HFP, that were originally used by county welfare offices for children referred pursuant to the School Lunch Program (Education Code Section 49557.2) and Section 14005.41 of the Welfare and Institutions Code, for Medi-Cal eligibility.

- Subsection 2699.6600(d)(1) establishes that the child's school lunch application itself shall be forwarded to the HFP. The HFP will accept the child's school lunch application as an application for determination of eligibility.

The child's school lunch application is the NSLP/Medi-Cal application, *Application for Free and Reduced Price Meals for School Year 2006-2006*. The template for this application, which has no form number or date, was approved jointly by the California Department of Education (CDE) and DHS, utilizing the required CDE and DHS criteria. Each school district may develop their own form from the template including the required CDE and DHS criteria and submit to CDE and DHS for approval. Therefore, the regulations do not incorporate this document by reference.

- Subsection 2699.6600(d)(2) establishes that the Supplemental Form for Express Enrollment Applicants (MC 368), a Medi-Cal form, will be accepted as a supplemental form for determination of HFP eligibility.
- Subsection 2699.6600(d)(3) establishes that a letter or Notice of Action from the County Welfare Office issued within the last two (2) months will be accepted along with the NSLP application and can be used for determination of HFP income eligibility, if the notice includes a statement that the applicant is eligible for share of cost Medi-Cal, a determination of total monthly household income before and after income deductions and an indication of the number of family numbers living in the household.

The above forms include the basic information the program needs to determine HFP eligibility. However additional information is needed at the time of application to complete the HFP enrollment process.

- Subsection 2699.6600(d)(4) establish the additional information and declarations the program needs to complete the HFP eligibility and enrollment that was not included in the school lunch application or supplemental Medi-Cal referral information. This information is already part of the HFP application process. Therefore, it cross references parts of the standard HFP application process already in regulation:

Subsection 2699.6600(c)(1)(C), asks the applicant's primary written and oral language. This is needed to provide equitable customer service.

Subsection 2699.6600(c)(1)(F) 15, asks the pregnancy status and due date of any one in the household. This is needed for referral of the pregnant household member to the Medi-Cal.

Subsection 2699.6600(c)(1)(G), is a declaration that the applicant is applying for all eligible children in the household. This is needed to determine accurate family size for inclusion in the HFP.

Subsections 2699.6600(c)(1)(M) through (Q) and (U) through (W) are other declarations to be affirmed by all HFP applicants.

Subsections 2699.6600(c)(1)(AA), (BB) 1. and (DD), is information and declarations necessary for selection of the program's health, dental and vision plan options.

Subsections 2699.6600(c)(1)(GG), requests information on American Indian or Alaska Native status. This information is necessary to apply for a waiver of family contributions and benefit co-payments for American Indians and Alaska Natives, as required by federal law.

Documents Incorporated by Reference

No documents were incorporated by reference.

DETERMINATIONS

In accordance with Government Code Section 11346.5(A)(7), the Managed Risk Medical Insurance Board must determine that no reasonable alternative considered by the Board, or that has been otherwise identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

The Managed Risk Medical Insurance Board has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The proposed action will not have an adverse economic impact on California business including the ability of California business to compete in other states. The changes involve individual families currently participating in or applying for the HFP, some of whom will need to pay higher premiums to participate.

The Proposed Action Differs Substantially From an Existing Comparable Federal Regulation or Statute: No Mandates on Local Agencies or School Districts:

Under SB 1196, School Districts start the process which could later result in the school lunch application being used for HFP eligibility. However, participation by a school district in this process is voluntary.

Mandate Requires State Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code:

None—Participation by school districts is voluntary and there is no known impact on other local governments.

Cost to Any Local Agency or School District That Requires Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4:

None. Under SB 1196, School Districts start the process which could later result in the school lunch application being used for HFP eligibility. Per the California Department of Education's analysis of SB 1196, the costs to school districts to carry out provisions of the Act are unknown, because implementation of Express Enrollment via the National School Lunch Program by a local school district is voluntary.

Nondiscretionary Costs or Savings Imposed on Local Agencies:

None—Participation by school districts is voluntary and there is no known impact on other local governments.

Cost or Savings To Any State Agency:

To the extent that these regulations result in an increase in enrollment in the HFP, the current budget estimate should adequately cover the costs of these regulations.

Cost or Savings in Federal Funding to the State:

Costs for children enrolled in the HFP are shared between the federal and state government using a 65%/35% ratio. To the extent that these regulations result in an increase in enrollment, the current budget estimate, which includes federal funding, should adequately cover the costs of these regulations.

Business Impact Statement

The Board has assessed the impact of these regulatory changes on California businesses, including small businesses. There is no known significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The changes mainly involve individual families participating in or applying for the HFP. The Board has assessed that the impact of these regulatory changes will not be significant enough to either create new jobs or businesses or eliminate existing jobs or businesses or affect the expansion of businesses currently doing business within California.

Cost Impact on Representative Private Persons or Businesses

The Board has considered the cost impact on representative private persons or businesses impacted by these regulations. The Board is not aware of any cost impacts that a representative private person or business

would necessarily incur in reasonable compliance with the proposed action.

TITLE 16. MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Embassy Suites Hotel, 1325 E Dyer Road, Santa Ana, CA 92705, at 9:00 a.m., on May 12, 2006. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office not later than 5:00 p.m. on April 24, 2006 or must be received by the board at the hearing. The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2018 and 2435 of the Business and Professions Code, and to implement, interpret or make specific Sections 2168.4 and 2435 of said Code, the Medical Board of California is considering changes to Article 15 of Chapter 1 of Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1351.5 and Section 1352: Revenue Neutral Fee Changes to Offset Loss of Investigative Cost Recovery

Senate Bill 231 (Chapter 674, Stats of 2005) amended B&P Code Section 2435 to set a fee of \$790 for the initial license fee and the biennial renewal fee. Previously, Section 2435 listed the maximum license fee and biennial renewal fee at \$610 and the Board, by regulation, adopted the actual fee which was charged for both, that being \$600.

This rulemaking would amend those sections which set forth the initial license fees and the biennial renewal fees by an amount equal to that income lost through the deletion of cost recovery, approximately \$15.50, as re-

quired by Section 125.3(k). The objective is to ensure the fiscal solvency of the Board.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Negligible. Only those agencies which employ physicians and surgeons and pay for the license or renewal fees will be impacted, but it would only be about \$15.50 per physician per year.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: Negligible. The board has determined that the proposed regulatory action would have minimal economic impact on California business enterprises and individuals since the fee increase will only be about \$15.50 per physician per year.

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: 1) a review of the Medical Board's fund condition, and 2) an analysis of the revenue lost by the deletion of investigative cost recovery.

Impact on Jobs/New Businesses:

The Medical Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Medical Board estimates the potential cost impact of the proposed regulations on directly affected private persons or entities to be an increase of about \$31.00 every 2 years. This is an increase of about \$15.50 each year.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulation would affect small business because a few physicians and surgeons would meet the definition of a small business. However, the impact would only be \$15.50 per licensee per year.

The express terms of the proposed action written in plain English are available from the agency contact person named in this notice.

CONSIDERATION OF ALTERNATIVES

The Medical Board has determined that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Medical Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the website listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person designated in this Notice under Contact Person or by accessing the website listed below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the person designated in this Notice under Contact Person or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the substance of the proposed rulemaking may be addressed to:

Name: Kevin A. Schunke
Address: Medical Board of California
1434 Howe Avenue, Suite 92
Sacramento, CA 95825
Tel No.: (916) 263-2368
Fax No.: (916) 263-2387
e-mail: kschunke@medbd.ca.gov

The backup contact person is :

Name: Linda Whitney
Address: Medical Board of California
1434 Howe Avenue, Suite 92
Sacramento, CA 95825
Tel No.: (916) 263-2389
Fax No.: (916) 263-2387
e-mail: lwhitney@medbd.ca.gov

Website Access: Materials regarding this proposal can be found at www.medbd.ca.gov.

TITLE 16. VETERINARY MEDICAL BOARD

NOTICE IS HEREBY GIVEN that the Veterinary Medical Board (hereinafter "board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Santa Monica Community College, Bundy 123 Meeting Room, 1900 Pico Blvd., Santa Monica, CA 90405 at 10:00 a.m. on Wednesday, April 26, 2006. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the board at its office not later than 5:00 p.m. on April 24, 2006, or must be received by the board at the hearing.

The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY & REFERENCE

Pursuant to the authority vested by Section 4808 of the Business and Professions Code, and to implement, interpret or make specific Sections 4836, 4840, 4840.2, 4853, and 4883 of said Code, the board is considering

changes to Division 20 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law authorizes Registered Veterinary Technicians and unregistered assistants to perform specific duties under the direct or indirect supervision of a licensed veterinarian. This regulatory proposal will amend existing regulations and adopt new regulations relating to the job tasks that can be performed by registered veterinary technicians (RVT).

Existing law identifies that an examination must be performed on an animal scheduled for surgery. This proposal clarifies the pre-anesthetic examination requirements for animals scheduled for anesthesia related services and also clarifies the requirements for observation of an animal recovering from anesthesia.

The proposal also makes minor grammatical changes to sections, to make them clearer to understand, but does not change the intent of the existing language.

1. Amend Section 2032.4(b)(1)

Existing regulations require that an examination be done 12 hours prior to surgery. This proposed amendment will require an examination be performed 12 hours prior to the administration of general anesthesia. This change will ensure that each animal has a thorough examination by a licensed veterinarian prior to any general anesthesia related services that may be performed, thus ensuring the safety and protection of the animal patient. General anesthesia is more commonly used in veterinary medicine than in human medicine because it is required in many cases for restraint purposes to insure the safety of the patient and the hospital staff.

2. Amend Section 2032.4(b)(2)

Existing regulations require observation of an animal under anesthesia for a length of time “appropriate to species”. This proposed amendment clarifies that an animal under anesthesia must be observed for an appropriate amount of time to ensure its safe recovery. This proposal deletes the language “appropriate to species” as unnecessary.

3. Amend Section 2034(b)

Existing regulation define an RVT as “Board Certified”. This proposed amendment changes the language to “certified by the Board”. This amendment does not change the intent of the existing language.

4. Amend Section 2034(c)

Existing regulation define an unregistered assistant as any individual who is not board certified. This proposed amendment modifies the language to define unregistered assistant as an individual who is not an RVT or licensed veterinarian. This amendment is in sync

with section 2034(a) and 2034(b), which clearly defines an RVT and licensed veterinarian. This amendment does not change the intent of the existing language.

5. Amend Section 2034(d)

Existing regulation defines “supervisor” and refers to the old language that was amended in section 2034(b). This proposed amendment is a grammatical change to make it clearer to understand and to be consistent with the amended section 2034(b). This amendment does not change the intent of the existing language.

6. Adopt Section 2034(h)

This proposed regulatory adoption establishes a legal definition of “administer”. Currently, this term is not defined in the California Veterinary Medicine Practice Act.

7. Adopt Section 2034(i)

This proposed regulatory adoption establishes a legal definition of “induce”. Currently, this term is not defined in the California Veterinary Medicine Practice Act.

8. Amend Section 2036(b)

Existing regulations already define supervision. This amendment deletes redundant regulatory language. The deleted language is stated in California Code of Regulations Section 2034(e).

9. Amend Section 2036(b)(1)

Existing regulation limits the anesthesia induction by registered veterinary technicians to only inhalation and intravenous injection. This regulatory amendment expands the scope of authority for RVTs to include anesthesia induction by any means. It is consistent with the proposed amendment to Section 2034(i) establishing the legal definition of “induce.”

10. Amend Section 2036(b)(2)

Existing regulatory language is being amended for grammatical purposes. It changes the words “application of casts and splints” to “apply casts and splints.” The change is intended to make the section clearer to understand.

11. Amend Section 2036(b)(3)

Existing regulatory language is being amended for grammatical purposes. The change amends the language to “perform dental extractions.” The change is intended to make the section clearer to understand that RVTs can perform dental extractions.

12. Amend Section 2036(b)(4)

Existing regulations limit the scope of suturing that is allowable by an RVT. This amendment expands the scope of authority for RVTs to include suturing of cutaneous and subcutaneous tissues and gingival and oral mucous membranes.

13. Adopt Section 2036(b)(5)

This proposed regulatory adoption creates a new task that can be performed by RVTs under direct supervision of a licensed veterinarian. It would restrict the performance of "creating a relief hole" in the skin to facilitate placement of an intravascular catheter to veterinarians and RVTs.

14. Adopt Section 2036(b)(6)

This proposed regulatory adoption would restrict the administration of intravenous cytotoxic antineoplastic chemotherapy drugs to veterinarians or RVTs under direct supervision.

15. Adopt Section 2036(b)(1)

Delayed implementation for the following. This would replace existing section 2036(b)(1) effective January 1, 2012:

This proposed regulation would, effective January 1, 2012, restrict to veterinarians and RVTs under direct supervision of a licensed veterinarian, the administration of anesthesia, including induction, maintenance and monitoring. The delayed implementation date is designed to address concerns from the profession of a shortage of RVTs and to give potential RVTs time to become eligible for the state examination and to become registered.

16. Adopt Section 2036(c) and (c)(1)

This proposed regulation defines the administration of controlled substances via injection as restricted to veterinarians or RVTs under direct or indirect supervision. There is no existing law, which defines this restriction.

17. Amend Section 2036(c) and renumber to Section 2036(d)

Existing regulations already define indirect supervision. This amendment deletes redundant regulatory language. The deleted language is stated in California Code of Regulations Section 2034(f). It also renumbers the section from 2036(c) to Section 2036(d)

18. Amend Section 2036.5(b)

Existing regulations already define direct and indirect supervision. This amendment deletes redundant regulatory language. The deleted language is stated in California Code of Regulations Section 2034(e) and 2034(f). The language was grammatically modified to make it clearer to understand.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The Veterinary Medical Board has made an initial determination that the adoption/amendments of this regulation may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following types of businesses would be affected:

(A) Veterinary practices

The Board has determined that designating additional tasks to be restricted to only veterinarians or RVTs may require veterinary facilities to either replace existing lay personnel with certified RVTs or require lay personnel to be trained and certified which may result in additional costs for the premises. The Board believes that the need for the additional requirements to insure consumer and animal safety outweighs the potential for increased costs. However, for the additional duties relative to anesthesia, the Board inserted a delayed implementation date to allow enough time for lay personnel to be trained and certified.

The following reporting, recordkeeping or other compliance requirements are projected to result from the proposed action: NONE

The Veterinary Medical Board has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals. Submissions may include the following considerations:

(A) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.

(B) Consolidation or simplification of compliance and reporting requirements for businesses.

(C) The use of performance standards rather than prescriptive standards.

(D) Exemption or partial exemption from the regulatory requirements for businesses.

The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence which supports this determination.

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have any impact on the creation of jobs or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board has determined that designating additional tasks to be restricted to only veterinarians or RVTs may require veterinary facilities to either replace existing lay personnel with certified RVTs or require lay personnel to be trained and certified which may result in additional costs for the premises.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations would affect small businesses.

The Board believes that the need for the additional requirements to insure consumer and animal safety outweighs the potential for increased costs. However, for the additional duties relative to anesthesia, the Board inserted a delayed implementation date to allow enough time for lay personnel to be trained and certified.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Veterinary Medical Board at 1420 Howe Avenue, Suite 6, Sacramento, CA 95825-3228.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which

is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Deanne Pearce
Address: 1420 Howe Avenue, Suite 6
Sacramento, CA 95825-3228
Telephone No.: (916) 263-2610.
Fax No.: (916) 263-2621
E-Mail Address: deanne_pearce@dca.ca.gov

The backup contact person is:

Name: Jennifer Thornburg
Address: 1420 Howe Avenue, Suite 6
Sacramento, CA 95825-3228
Telephone No.: (916) 263-2610.
Fax No.: (916) 263-2621
E-Mail Address: jennifer_thornburg@dca.ca.gov

Website Access:

Materials regarding this proposal can be found at www.vmb.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game — Public Interest Notice

For Publication March 10, 2006
CESA CONSISTENCY DETERMINATION FOR
Eureka Waterfront and Woodley Island Marina
Maintenance Dredging Project
Humboldt County

The Department of Fish and Game ("Department") received notice on February 21, 2006 that the City of Eureka and Humboldt Bay Harbor, Recreation, and Conservation District ("Notifiers") propose to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of suction dredge excavation of 216,000 cubic yards of material from the Eureka city waterfront and Woodley Island Marina and transmission and discharge of that material through a pipeline to the beach west of the city of Samoa in Humboldt County.

The National Marine Fisheries Service, on December 6, 2005, issued a no jeopardy federal biological opinion (151422SWR2004AR9177:DA) which considers the Federally and State threatened Southern Oregon/Northern California Coast (SONCC) Coho salmon (*Oncorhynchus kisutch*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, the Notifiers are requesting a determination that the federal biological opinion 151422SWR2004AR9177:DA is consistent with CESA.

If the Department determines that the federal biological opinion is consistent with CESA, the Notifiers will not be required to obtain an incidental take permit under CESA for the proposed project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game — Public Interest Notice

For Publication March 10, 2006
CESA CONSISTENCY DETERMINATION FOR
Reclamation District 108 (RD108) Poundstone Intake
Consolidation and Positive Barrier
Fish Screen Project
Yolo and Colusa Counties

The Department of Fish and Game (“Department”) received notice on February 21, 2006 that Reclamation District 108 (RD108) proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (“CESA”). This project consists of the construction and operation of a pumping plant and positive barrier fish screen along the west bank of the Sacramento River near river mile 110.3 and the decommissioning of several other unscreened pumping facilities in Yolo and Colusa Counties.

The U.S. Bureau of Reclamation (“BOR”) received a no jeopardy federal biological opinion (151422SWR2005SA00266:HLB) from the National Marine Fisheries Service on January 6, 2006. The biological opinion considers the federally and state listed endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*) and the federally and state listed threatened Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), and authorizes incidental take. The U.S. Fish and Wildlife Service issued BOR a no jeopardy federal biological opinion (1-1-05-I-0404) on November 8, 2005 which considers the federally and state listed threatened giant garter snake (*Thamnophis gigas*), and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, RD108 is requesting a determination that the federal biological opinions 151422SWR2005SA00266:HLB and 1-1-05-I-0404 are consistent with CESA. If the Department determines that the federal biological opinions are consistent with CESA, RD108 will not be required to obtain an incidental take permit under CESA for the proposed project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game — Public Interest Notice

For Publication March 10, 2006
CESA CONSISTENCY DETERMINATION FOR
Santa Nella Community Specific Plan
San Joaquin Kit Fox HCP
Merced County

The Department of Fish and Game (Department) received notice on February 23, 2006 that the Arnaudo Brothers, Wathen-Castanos, and Parkway South, LLC (Permittees) propose to rely on their consultation with the U.S. Fish and Wildlife Service (Service) to carry out projects that may adversely affect species protected by the California Endangered Species Act (CESA). The projects consist of various commercial, residential, and infrastructure development on approximately 180.4 acres of the Santa Nella Community Specific Plan area in Merced County, California. The Project will impact habitat for the state threatened San Joaquin kit fox (*Vulpes macrotis mutica*).

On November 28, 2005, the Service issued Incidental Take Permits to the Permittees (TE016739-0, TE016740-0, and TE115585-0) which authorize incidental take of the federally endangered San Joaquin kit fox. The Incidental Take Permits require the Permittees to implement a Habitat Conservation Plan that the Service approved in September 2005.

Pursuant to California Fish and Game Code Section 2080.1, the Permittees are requesting a determination that Incidental Take Permits TE016739-0, TE016740-0, and TE115585-0, which require the Permittees to fully implement the Habitat Conservation Plan, are consistent with the requirements of CESA. If the Department determines that the Incidental Take Permits are consistent with CESA, the Permittees will not be required to obtain separate permits under CESA (Fish and Game Code Section 2081(b)) for the proposed projects.

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION

Fish and Game Code Section 2080.1

Tracking Number 2080-2006-001-01

PROJECT: Airport Road Bridge Replacement Project
LOCATION: Anderson, Shasta County
NOTIFIER: Shasta County Department of Public Works, Redding, California

BACKGROUND

On January 6, 2006, the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NMFS) issued to the Federal Highway Administration (FHWA) (reference number 151422SWR2003SA8897:MET), a “no jeopardy” biological opinion (BO) and incidental take statement (ITS) which describe the project actions and set forth measures to mitigate impacts to State and Federal listed endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), State and Federal listed threatened Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), and temporary adverse impacts to spawning and rearing habitat resulting from replacement of the Airport Road bridge in Shasta County. On January 18, 2006, the Director of the Department of Fish and Game (Department) received a notice from the Shasta County Department of Public Works, pursuant to Section 2080.1 of the Fish and Game Code, requesting a determination that the BO is consistent with the California Endangered Species Act (CESA).

The Shasta County Department of Public Works (County), in cooperation with the California Department of Transportation and the FHWA, is proposing to replace the existing 28-foot-wide, two-lane bridge over the Sacramento River on Airport Road. The new 69-foot-wide, four-lane concrete box girder bridge will be constructed immediately upstream of the existing bridge. Once the new bridge is open to traffic, the old bridge will be removed. Upon completion, the project will result in a slight increase in the amount of instream habitat by reducing the number of piers in the Sacramento River channel from four to two. In addition to the potential for incidental take of listed Chinook salmon, up to 1.2 acres of riparian vegetation and shaded riverine aquatic (SRA) habitat will be disturbed as a result of construction activities. Placement of grav-

el work pads may result in the temporary loss of potential spawning habitat and project activities may potentially contribute sediment and petroleum based products into the River.

DETERMINATION

The Department has determined that Federal BO and ITS reference number 151422SWR2003SA8897:MET are consistent with CESA because the project and mitigation measures it describes meet the conditions set forth in Fish and Game Code Section 2081(b) and (c) for authorization of incidental take of species protected under CESA. Specifically, the Department finds that the take of Sacramento River winter-run Chinook salmon and Central Valley spring-run Chinook salmon will be incidental to an otherwise lawful activity (i.e., replacement of an existing County bridge), the mitigation measures identified in the BO and ITS will minimize and fully mitigate the impacts of the authorized take of the above-listed species, and the project will not jeopardize the continued existence of either species. The mitigation measures contained within the biological opinion include but are not limited to the following:

- 1) Unavoidable impacts to SRA habitat and riparian vegetation will be offset by planting replacement riparian vegetation at a ratio of 3:1 on-site, or, if sufficient mitigation cannot be accomplished on site, at the Department’s Battle Creek Riparian Mitigation site.
- 2) Gravel work pads shall be constructed and managed to minimize potential adverse impacts and to maximize potential benefits to listed Chinook salmon from these structures.
 - a) In order to avoid the potential for covering/smothering incubating and pre-emergent salmonids, anti-spawning mats shall be installed in the expected footprints of the gravel work pads between August 15 and September 15. The mats shall remain in place for at least 60 days, after which time they shall be removed and immediately replaced with clean gravel fill.
 - b) Gravel shall be washed and shall meet Caltrans Gravel Cleanliness Specification #85 to minimize the introduction of fine sediments to the river. Gravel size shall be between 1 and 4 inches in diameter, and will be uncrushed, rounded natural river rock with no sharp edges.

- c) In order to supply clean gravel to downstream spawning habitat, the gravel work pads shall not be fully removed following their use. Instead, only non-gravel surfacing materials and any other materials which are required to be removed by the California Reclamation Board to avoid flood risk shall be removed. The remaining spawning gravel shall be left in the river channel and allowed to wash downstream and be distributed naturally by high stream flows.
- 3) Measures shall be taken to minimize the amount and duration of pile driving and its potential impacts on listed Chinook salmon.
 - a) All in-channel percussive work shall be restricted to the period between October 15 and April 15 of each calendar year. Limiting percussive work to this period will allow winter-run Chinook salmon to complete their spawning and incubation while no percussive work is conducted.
 - b) All trestle, falsework, and cofferdam piles shall be located and constructed so that wherever feasible, piles shall be left in place and reused in subsequent stages of the construction process.
 - c) FHWA and Caltrans shall conduct acoustic monitoring within the water column and the substrate of the Sacramento River to determine the range and magnitude of compression shock waves generated by pile driving operations at the Airport Road Bridge Replacement project. Acoustic monitoring must be designed to detect if, and at what range, pile driving activities generate noise levels found to be lethal to juvenile salmonids (204 db).
- 4) Upstream and downstream anadromous fish passage shall be maintained at all times. In-channel work shall not be conducted at night to afford fish quiet, unobstructed passage during night-time hours.
- 5) A qualified fisheries biologist shall inspect and sample the areas enclosed by cofferdams as soon as the cofferdams are completed to ensure that no salmonids have been trapped within the cofferdam. If any entrained salmonids are detected, they shall be removed and relocated to the open river channel. Cofferdams shall be checked periodically, especially following a high-flow event, to determine if additional fish salvaging is required.

- 6) FHWA and Caltrans shall provide a yearly report summarizing construction activities, species status within 200 yards upstream and downstream of the bridge site, avoidance and/or minimization measures taken, and any observed take of listed species.
 - a) FHWA/Caltrans shall provide a summary report by December 31 of each construction year detailing in-water construction activities and the results of acoustic monitoring.
 - b) If a listed species is observed injured or killed by project activities, FHWA and Caltrans shall contact NMFS within 48 hours. Notification shall include species identification, the number of fish, and a description of the action that resulted in take.

Pursuant to Section 2080.1 of the Fish and Game Code, no incidental take authorization under CESA will be required for incidental take of winter-run and spring-run Chinook salmon during the project as it is described in the BO, provided the County complies with the mitigation measures and other conditions described in the biological opinion. If there are any substantive changes to the project, including changes to the mitigation measures, or if NMFS amends or replaces the BO, the County will be required to obtain a new consistency determination or CESA incidental take permit from the Department.

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION Fish and Game Code Section 2080.1 CESA No. 2080-2006-002-02

PROJECT: PG&E West Sacramento to Davis 115kV Reconductoring and Pole Replacement Project

LOCATION: Yolo County

NOTIFIER: Matrix Environmental Planning on behalf of Pacific Gas and Electric Company

BACKGROUND

The Pacific Gas and Electric Company (PG&E) proposes to replace poles and install a new conductor on its existing 12-mile-long 115kV electric transmission line between West Sacramento and Davis in Yolo County. Approximately four miles of transmission line is within the Yolo Bypass. Within the Yolo Bypass, PG&E proposes to replace the 88 existing wood poles with 35 tall-

er, pre-stressed, spun concrete poles in the same alignment. The concrete poles are specifically designed to prevent damage from beavers and water inundation, and to minimize the need for frequent repairs and pole replacement. The new poles will be approximately 30–40 feet higher to provide for longer spans.

All construction activities, including conductor pulling and tensioning, will be restricted to PG&E's existing 50-foot-wide right-of-way and a 100-foot by 100 foot work area at each new pole location. In addition, five irrigation ditches and slough culvert crossings may require structural support (e.g., placement of steel plates to distribute weight) to accommodate project-related material transportation and construction equipment. Site access will utilize existing farm roads.

The four miles of transmission line in the Yolo Bypass occurs in potential giant garter snake (snake) habitat. Work in this area may result in direct and indirect impacts to this species and its habitat. The project will result in permanent impacts of 0.021 acre of upland habitat and 0.001 acre of aquatic habitat for the snake. An additional 8.03 acres of snake upland habitat will be temporarily disturbed for one season between May 1 and October 1.

Because of the project's potential for take of the listed giant garter snake, the U.S. Army Corps of Engineers consulted with the U.S. Fish and Wildlife Service (Service), as required by the Endangered Species Act (ESA) (16 U.S.C. § 1531 *et seq.*). On April 28, 2005, the Service issued Biological Opinion No. 1–1–05–F–0128 for the PG&E West Sacramento to Davis 115kV Reconductoring and Pole Replacement Project, describing the project actions and setting forth measures to mitigate impacts to the giant garter snake and its habitat. The Service determined that the project fell within the scope of its earlier Programmatic Consultation No. 1–1–97–F–149, and required that PG&E comply with terms of that Programmatic Consultation as well as additional measures in Biological Opinion No. 1–1–05–F–0128. Because the giant garter snake is also listed as a threatened species under the California Endangered Species Act, Fish and Game Code Sections 2050 *et seq.* (CESA), on January 26, 2006, the Director of the Department of Fish and Game (DFG) received a notice from Matrix Environmental Planning (representing PG&E) pursuant to Fish and Game Code Section 2080.1, requesting a determination that the Federal Biological Opinion for this project is consistent with CESA.

DETERMINATION

Based on the terms and conditions in the Federal Biological Opinion No. 1–1–05–F–0128, DFG has determined that the project is consistent with CESA because

the project and mitigation measures meet the conditions set forth in Fish and Game Code Section 2081(b) and (c) for authorization of incidental take of species protected under CESA. DFG specifically finds that the measures identified in the Biological Opinion will minimize and fully mitigate the project's potential impacts on the giant garter snake and that the project will not jeopardize the continued existence of this species. These measures include, but are not limited to, the following requirements:

1. PG&E will compensate for impacts to 0.021 acre of snake habitat at a 3:1 ratio by purchasing conservation credits equivalent to 0.063 acre of snake habitat at an approved conservation bank that services the proposed project area. The project proponent has purchased 0.063 credits from the Pope Ranch Conservation Bank in order to fulfill this requirement.
2. PG&E shall restore 8.03 acres of temporarily disturbed snake habitat as described in the Service's "Guidelines for Restoration and/or Replacement of Snake Habitat".
3. PG&E shall adhere to the avoidance and minimization measures described in both the Service's Biological Opinion and the "Standard Avoidance and Minimization Measures During Construction Activities in Giant Garter Snake Habitat", and the terms and conditions of the earlier Programmatic Consultation.

Pursuant to Fish and Game Code section 2080.1, with this determination incidental take authorization under CESA will not be required for incidental take of giant garter snake for the project, provided that PG&E implements the project as described in the Biological Opinion and complies with the mitigation measures and other conditions described in the Biological Opinion. If there are any substantive changes to the project, including changes to the mitigation measures, or if the Service amends or replaces the biological opinion, PG&E will be required to obtain a new consistency determination or a CESA incidental take permit from DFG.

DEPARTMENT OF PESTICIDE REGULATION

NOTICE OF ADDITIONAL PUBLIC HEARINGS REGARDING PROPOSED CHANGES IN REGULATIONS OF THE DEPARTMENT OF PESTICIDE REGULATION Enforcement Response DPR Regulation No. 06–001

The Department of Pesticide Regulation (DPR) published a Notice of Proposed Changes pertaining to ap-

appropriate enforcement responses to be taken by the county agricultural commissioner each time a violation(s) occurs, in the *California Regulatory Notice Register* of January 27, 2006, Register 2006, No. 4-Z, pages 72-75.

DPR has scheduled two additional public hearings from that which was in the original Notice of Proposed Changes to receive oral comments regarding the proposed regulatory changes.¹ A public hearing will be held in Salinas, California, and Bakersfield, California regarding the adoption of section 6128 and amendments to section 6130 of Title 3, California Code of Regulations.

DATE: March 27, 2006

TIME: 5:00 p.m.

PLACE: Doubletree Hotel Bakersfield
Buena Vista Room
3100 Camino Del Rio Court
Bakersfield, California 93308

DATE: March 28, 2006

TIME: 5:00 p.m.

PLACE: Monterey County Agricultural
Commissioner's Office
Richard W. Nutter Conference Room
1428 Abbott Street
Salinas, California 93901

As stated in the original notice, public hearings have been scheduled for the place stated below to receive oral or written comments regarding the proposed regulatory changes.

DATE: March 16, 2006

TIME: 1:00 p.m.

PLACE: California Environmental Protection
Agency Headquarters Building
Sierra Hearing Room
1001 I Street,
Sacramento, California 95812-4015

Under the provision of the Administrative Procedure Act (California Rulemaking Law), the public hearing is

the time and place set for the presentation of statements, arguments, and contentions, orally or in writing, for or against the changes in the regulation pertaining to enforcement response.

The purpose of the hearing is to accept public comment. Witnesses presenting testimony at the hearing will not be sworn in, nor will there be any cross-examination of witnesses. Comments made at the hearing will not be responded to at that time, but will be addressed in writing in the final statement of reasons and will be part of the rulemaking record which is available to the public. The Department will consider all relevant matter presented before adopting the regulation. Oral comments presented at a hearing carry no more weight than written comments.

A DPR representative will preside at each hearing. Persons who wish to speak will be asked to register before the hearing. The registration of speakers will be conducted at the location of the hearing from 12:30 to 1:00 p.m. in Sacramento, and from 4:30 to 5:00 p.m. in Salinas and Bakersfield. Generally, registered persons will be heard in the order of their registration. Any other person who wishes to speak at the hearing will be afforded the opportunity to do so after the registered persons have been heard. If the number of registered persons in attendance warrants, the hearing officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

Any interested person may present comments in writing about the proposed action to the agency contact person named below. The public comment period has been extended. Written comments must be received no later than 5:00 p.m. on March 29, 2006. Comments regarding this proposed action may also be transmitted via e-mail (dpr06001@cdpr.ca.gov). Written comments about the proposed regulatory action, requests for a copy of the Initial Statement of Reasons and the proposed text of the regulation, and inquiries regarding the rulemaking file may be directed to:

Linda Irokawa-Otani, Regulations Coordinator
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, California 95812-4015
(916) 445-3991

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page (<http://www.cdpr.ca.gov>).

¹ If you have special accommodation or language needs, please notify DPR. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service. If you are a person who needs assistance in Spanish, please contact the agency person listed in this notice.

RULEMAKING PETITION DECISIONS

MEDICAL BOARD OF CALIFORNIA

DIVISION OF LICENSING MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

DECISION DENYING PETITION

In the Matter of the Petition to
Adopt Regulations Exempting
Physicians in Industry from the
Requirements of Business and
Professions Code Section 2190.5

Bryan R. Leigh, M. D., wrote a letter to Dr. Richard Fantozzi, president of the Division of Licensing of the Medical Board of California ("board"). The letter is dated November 28, 2005. The letter asked the board to exempt physicians in the biotechnology and/or pharmaceutical industry from the pain management continuing education requirements of Business and Professions Code Section 2190.5. The rationale is that those physicians are not involved in direct patient care or patient consultations. The board's executive director treated this letter as a petition to adopt regulations and advised Dr. Leigh by letter dated December 15, 2005, that his petition would be heard by the board's Division of Licensing at its regularly-scheduled meeting on February 3, 2006, in El Segundo. He requested that Dr. Leigh attend to present his position on why he believes the regulation is necessary and to clarify the scope of the exemption sought.

At its meeting on February 3, 2006, the Division of Licensing voted to deny the petition. The petition is denied on the following grounds:

1. The parameters of the requested exemption are unclear, and Dr. Leigh did not attend the meeting or provide greater clarity.
2. Given that a physician's and surgeon's certificate authorizes the holder to practice all facets of medicine and there is no specialty licensure in California, the enforcement and administration of the law would become extremely difficult if not impossible. While the legislature chose to exempt physicians practicing as radiologists or pathologists, the board believes it would not be in the public interest to begin a process of

determining which practice areas should be exempt from the pain management continuing education requirement, since the board has no method of determining whether a physician is engaging in any specific practice area.

Interested persons may obtain a copy of the petition from the Medical Board of California by contacting Kevin Schunke at (916) 263-2368, or at kschunke@medbd.ca.gov, or by sending a written request to the following address: Medical Board of California, 1426 Howe Avenue, Suite 92, Sacramento, California 95825.

November 28, 2005

Dr. Richard Fantozzi, President
Division of Licensing
Medical Board of California
1426 Howe Avenue, Suite 92
Sacramento, California 95825-3236

Re: Petition to promulgate regulations concerning Business and Professions Code section 2190.5 for physicians in industry

Dear Dr. Fantozzi:

I am a physician at a small biotechnology company in California. I have been in the biotech industry for many years and have no plans to return to direct patient care or patient consultations.

Based on the Business and Professions Code, it appears that physicians in the biotechnology and pharmaceutical industry qualify to be exempted from your Pain Management CME requirement. As you are aware, Section 2190.5(b) states that:

"By regulatory action, the board may exempt physicians and surgeons by practice status category from the requirement in subdivision (a) if the physician and surgeon does not engage in direct patient care, does not provide patient consultations, or does not reside in the State of California."

With this letter, I am petitioning the board to promulgate the above regulations for physicians in industry.

Information on your website indicates that physicians practicing in the pathology or radiology specialties are exempt. In my industry, physicians are separated from direct patient care — even more so than pathologists or radiologists. Thank you in advance.

Sincerely yours,

Bryan R. Leigh, MD
Chief Medical Officer

cc: Dr. Ronald Wender, Kimberly Kirchmeyer, David T. Thornton

MEDICAL BOARD OF CALIFORNIA

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

DECISION DENYING PETITION

In the Matter of the Petition to
Adopt Regulations re Timely
Submission of Disability Reports

Geoffrey Ayre-Smith wrote a letter to Dr. Ronald H. Wender, president of the Medical Board of California ("board"). The letter is dated December 22, 2005. The letter asked the board to "hold Physicians (*sic*) responsible for this documentation [submitting disability reports to insurance companies] & to have a time limit." The board's executive director treated this letter as a petition to adopt regulations and advised Mr. Ayre-Smith by letter dated January 6, 2006, that his petition would be heard by the board's Division of Medical Quality at its regularly-scheduled meeting on February 3, 2006, in El Segundo. He requested that Mr. Ayre-Smith attend to present his position and substantiating information on why he believes the regulation is necessary and the authority for the Board to adopt such a regulation.

At its meeting on February 3, 2006, the Division of Medical Quality voted to deny the petition. The petition is therefore denied on the basis that the board lacks the statutory authority to adopt a regulation that would set a time frame within which physicians must submit disability reports to insurance companies.

Interested persons may obtain a copy of the petition from the Medical Board of California by contacting Kevin Schunke at (916) 263-2368, or at kschunke@medbd.ca.gov, or by sending a written request to the following address: Medical Board of California, 1426 Howe Avenue, Suite 92, Sacramento, California 95825.

3875-A Telegraph Rd, #404
Ventura, CA 93003

Medical Board of California
Office of the President, Ronald H. Wender, M.D.
1426 Howe Ave
Sacramento
CA 95825-3236

Re: Disability Documentation — Petition

Dear Dr. Wender:

I wish to bring a serious problem to the attention of the Board.

In general, this applies to all Physicians licensed in the State of California. I do not refer to a specific Physician, although I have lodged a formal complaint to the Board about one of them.

The issue concerns the issuing of reports on patient disability to Insurance Companies, and the filling in of forms forwarded to Physicians.

Without any exceptions, this exceptionally important service to disabled patients has a low priority. Doctors generally regard this as a nuisance, onerous & a waste of their time. I have on many occasions had to make multiple phone calls, complaints & even resorted to anger to Physicians offices, as time dragged on for weeks & weeks.

This is not a nuisance. Nothing could be further from the truth! These reports are essential to disabled patients to forward to their Insurance Company and to Social Security. Although 3-6 monthly reports are the norm, in the initial stages, some companies, such as UNUM demand monthly reports.

These are usually simple to fill out, and take only 5 minutes. The actual questions can be quickly filled out by an RN or a Physician's Assistant, with the Physician then signing them.

I have personally experienced poor or non-existent cooperation from seven Physicians since 1999. This lack of response directly led to me being denied Disability Insurance in year 2000. Most of these Physicians were good at their jobs, and thorough. Their attitude is indeed strange, but is egregious.

It is not as if this is a free service; there is a CPT Code for this service, and many Physicians charge \$50. I think this is reasonable.

I am petitioning the Board of Medicine for myself and on behalf of all disabled California residents for a rule to be promulgated that holds Physicians responsible for this documentation, & to have a time limit.

This would be a great service to many people, and ease the severe stress of this situation.

Sincerely,

Geoffrey Ayre-Smith
Phone (805) 339-9236
12/22/05

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

BOARD FOR GEOLOGISTS AND GEOPHYSICISTS

Registered Geophysicist Name Change

This is a nonsubstantive file changing the title "registered geophysicist" to "professional geophysicist," based on Statutes of 2005, chapter 657.

Title 16
California Code of Regulations
AMEND: 3008, 3031, 3062.1
Filed 02/24/06
Effective 03/26/06
Agency Contact: Christine Doering (916) 263-2113

DENTAL BOARD OF CALIFORNIA

General Anesthesia and Conscious Sedation

The regulatory action deals with general anesthesia and (moderate) conscious sedation.

Title 16
California Code of Regulations
AMEND: 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.6
Filed 02/27/06
Effective 03/29/06
Agency Contact: Donna Kantner (916) 263-2300

DEPARTMENT OF CONSERVATION

Processor and Recycling Center Regulations

This regulatory action is to amend several sections of the processor and recycling center regulations to clarify requirements regarding weight tickets; clarify containers excluded from received weight; revise the shipping report; clarify how dual entities (a combined processor and recycling center) can use an alternate method of accounting for weight tickets; and allow processors to submit a second amended and a second supplemental processor invoice per material type, per original processor invoice.

Title 14
California Code of Regulations
AMEND: 2000, 2090, 2105, 2110, 2401, 2420, 2425, 2430, 2501, 2530, 2535, 2540, 2850
Filed 02/23/06
Effective 03/25/06
Agency Contact: Karen Denz (916) 322-1899

DEPARTMENT OF FISH AND GAME

Tank Vessel Escort Program for Los Angeles/Long Beach Harbors

Under existing section 851.23 of title 14, all escort tugs in the Los Angeles/Long Beach Harbor used for escorting vessels must have their static bollard pull measured and certified at least once every three years. Existing subsection (a)(6)(A)l. provides for an extension to the board pull re-test date for good cause for up to one year from the date the bollard pull test certificate expires. This emergency regulatory action would amend subsection (a)(6)(A)l. to lengthen the extension period to up to two years from the date the bollard pull test certificate expires.

Title 14
California Code of Regulations
AMEND: 851.23
Filed 03/01/06
Effective 03/01/06
Agency Contact: Joy Lavin-Jones (916) 327-0910

DEPARTMENT OF FOOD AND AGRICULTURE

Mediterranean Fruit Fly Interior Quarantine

In this Certificate of Compliance filing, the Department of Food and Agriculture amends a regulation pertaining to "Mediterranean Fruit Fly Interior Quarantine" to establish a quarantine area in the Rancho Cucamonga area of San Bernardino County.

Title 3
California Code of Regulations
AMEND: 3406(b)
Filed 02/22/06
Effective 02/22/06
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE

Mediterranean Fruit Fly Interior Quarantine

In this Certificate of Compliance filing, the Department of Food and Agriculture amends a regulation pertaining to the "Mediterranean Fruit Fly Interior Quarantine" to expand the quarantine area in the Rancho Cucamonga area of San Bernardino County.

Title 3
California Code of Regulations
AMEND: 3406(b)
Filed 03/01/06

Effective 03/01/06

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE

Engine Fuel Lubricity Standards

This change without regulatory effect corrects the name of the American Society for Testing and Materials (ASTM) to ASTM International and adds an address and website for the ASTM International. This is an amendment to 4 CCR 4143.

Title 4

California Code of Regulations

AMEND: 4143

Filed 02/28/06

Effective 02/28/06

Agency Contact: David Lazier (916) 229-3044

DEPARTMENT OF INSURANCE

Ordering of Motor Vehicle Reports

This regulatory action provides that to determine a driver's safety record for purposes of California Insurance Code sections 1861.02(a)(1) and 1861.025, each insurer shall verify a driver's current driving safety record as contained in the Motor Vehicle Report ("MVR") for every driver listed on the policy at the time of policy application, and for each new driver added to the policy at the time the driver is added, and no less frequently than every 36 months thereafter.

Title 10

California Code of Regulations

AMEND: 2632.5(c)(1)(A)

Filed 02/27/06

Effective 04/28/06

Agency Contact:

Cathleen S. Chapman (415) 538-4458

DEPARTMENT OF JUSTICE

Business Partner Automation Surety Bond

This print-only filing is the Department of Justice's approval and printing of Business Partner Automation Surety Bond REG 866 (REV. 4/2005).

Title 11

California Code of Regulations

AMEND: 51.19

Filed 02/22/06

Effective 02/22/06

Agency Contact: Anne M. Burr (415) 703-1403

DEPARTMENT OF MOTOR VEHICLES

Traffic Violator Schools

This Certificate of Compliance amends the requirements for traffic violator schools in compliance with Chapter 952, Statutes of 2004 and federal regulations. (Previous OAL file #05-0810-02E)

Title 13

California Code of Regulations

AMEND: 345.39, 345.45, 345.56, 345.78

Filed 02/22/06

Effective 02/22/06

Agency Contact: Randi Calkins (916) 657-8898

DEPARTMENT OF MOTOR VEHICLES

Business Partner Automation Program

This action updates and reorganizes the Department of Motor Vehicle's Business Partner Automation Program.

Title 13

California Code of Regulations

ADOPT: 225.35 AMEND: 225.03, 225.09, 225.12, 225.18, 225.21, 225.42, 225.45, 225.48, 225.51, 225.54, 225.72

Filed 02/22/06

Effective 03/24/06

Agency Contact: Christie Patrick (916) 657-5567

DEPARTMENT OF REAL ESTATE

Miscellaneous Real Estate

Department of Real Estate (DRE) proposes repeal, amendment, and adoption of miscellaneous sections in Title 10, chapter 6, of the California Code of Regulations.

Title 10

California Code of Regulations

ADOPT: 2713, 2715.5, 2797, 2841.5, 3012.3 AMEND: 2716.5, 2770, 2791, 2792.32, 2795.1, 2846.1, 2846.5, 2846.7, 2849.01, 2930 REPEAL: 2708, 2709, 2821, 2822

Filed 02/28/06

Effective 03/30/06

Agency Contact: David B. Seals (916) 227-0789

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Fire Protection in Shipyard Employment II

This regulatory action deals with fire protection standards in shipyard employment by increasing protection from fire hazards in the ship building, ship repair and ship breaking (Shipyard) industries. This regulatory action is exempt from Articles 5 and 6 of the Administrative Procedure Act, and thus exempt from OAL review, pursuant to Labor Code section 142.3.

Title 8
 California Code of Regulations
 ADOPT: 8397.14, 8397.15, 8397.16
 AMEND: 8354, 8397.12
 Filed 02/22/06
 Effective 02/22/06
 Agency Contact: Marley Hart (916) 274-5721

**OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD**
 Metal Scaffolds

This regulatory action was initiated by the Division of Occupational Safety and Health because the current 36-inch maximum height of the midrail cross-bracing intersection contained in Construction Safety Orders, Section 16644(a)(6)(B), is inconsistent with the Federal OSHA counterpart standard found in 29 CFR 1926.451(g)(4)(xv), which limits the maximum height to 30 inches. The state standard is being revised to 30 inches to make it at least as effective as its federal counterpart standard.

Title 8
 California Code of Regulations
 AMEND: 1644
 Filed 02/28/06
 Effective 03/30/06
 Agency Contact: Marley Hart (916) 274-5721

**OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD**
 Mast-Climbing Work Platforms

This action amends the regulations pertaining to elevating work platforms to specifically include mast-climbing work platforms in that category of equipment; specify the applicable construction standards; warning placards, operator training, inspection and record keeping requirements; and some limitations on uses

Title 8
 California Code of Regulations
 AMEND: 3637, 3638, 3639, 3640, 3642, 3646
 Filed 02/27/06
 Effective 03/29/06
 Agency Contact: Marley Hart (916) 274-5721

STATE PERSONNEL BOARD
 Discovery in Evidentiary Hearings

This regulatory action concerns discovery procedures in evidentiary hearings before the State Personnel Board or Board administrative law judge. This regulatory action is exempt from the Administrative Procedure Act pursuant to section 18211 of the Government Code and is submitted to the Office of Administrative Law for filing with the Secretary of State and publica-

tion in the California Code of Regulations pursuant to section 18214 of the Government Code.

Title 2
 California Code of Regulations
 AMEND: 57.1, 57.2, 57.3, 57.4
 Filed 02/28/06
 Effective 02/28/06
 Agency Contact:
 Elizabeth Montoya (916) 654-0842

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN SEPTEMBER 28, 2005 TO
 MARCH 01, 2006**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1
 12/29/05 AMEND: 1038

Title 2
 02/28/06 AMEND: 57.1, 57.2, 57.3, 57.4
 02/21/06 AMEND: 2320(a) (2)
 02/21/06 REPEAL: 2550, 2551, 2552, 2553, 2554, 2555, 2556
 02/21/06 ADOPT: 18371
 02/21/06 ADOPT: 18361.10
 02/16/06 AMEND: Div. 8, Ch. 58, Sec. 54700
 01/30/06 AMEND: Div. 8, Ch. 103, Sec. 59150
 01/24/06 REPEAL: 649.23, 649.25, 649.26, 649.27
 01/23/06 AMEND: 18351
 01/20/06 AMEND: 1897
 01/17/06 AMEND: Div. 8, Ch. 64, Sec. 55300
 01/17/06 ADOPT: 560 REPEAL: 560
 12/29/05 AMEND: 18329.5, 18701, 18751
 12/21/05 AMEND: 599.960, 599.961
 12/20/05 AMEND: 18700, 18707, 18708
 12/12/05 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80
 11/16/05 AMEND: 1181

11/07/05 ADOPT: 1859.300, 1859.301, 1859.302,
1859.310, 1859.311, 1859.312,
1859.313, 1859.314, 1859.315,
1859.316, 1859.317, 1859.318,
1859.319, 1859.320, 1859.321,
1859.322, 1859.323, 1859.323.1,
1859.323.2, 1859.324, 1859.325,
1859.326, 1859.327, 1859.328,
11/07/05 AMEND: 20107
10/31/05 AMEND: 1859.2, 1859.81, 1866
10/27/05 AMEND: 1859.2, 1859.51, 1859.104.3,
1859.147, 1859.202, 1866, Form SAB
50-01
10/24/05 ADOPT: 1859.23 AMEND: 1859.2,
1859.122, 1859.123, 1859.123.1
10/18/05 ADOPT: 18732.5
10/11/05 ADOPT: 18117, 18772
10/11/05 AMEND: 18450.4
10/11/05 AMEND: 18401, 18427.1, 18700,
18705, 18707.9, 18730, 18750
10/06/05 ADOPT: 18735.5

Title 3

03/01/06 AMEND: 3406(b)
02/22/06 AMEND: 3406(b)
02/21/06 AMEND: 3433(b)
02/21/06 AMEND: 3700(c)
02/21/06 ADOPT: 3591.19(a)(b)(c) AMEND:
3591.19(a)
02/16/06 ADOPT: 3433
02/07/06 AMEND: 6502
02/02/06 AMEND: 3700(c)
01/12/06 AMEND: 6393, 6394, 6395, 6396
12/28/05 AMEND: 3406(b)
12/28/05 ADOPT: 6576, 6950
12/15/05 AMEND: 6400
12/13/05 AMEND: 3700(c)
12/01/05 AMEND: 3700(c)
11/23/05 AMEND: 3406(b)
10/25/05 AMEND: 3406(b)
10/24/05 AMEND: 3433(b)
10/20/05 AMEND: 3591.19(a)
10/19/05 AMEND: 3406(b)
10/18/05 ADOPT: 3591.18
10/17/05 AMEND: 3406(b)
10/07/05 AMEND: 3406(b)
10/07/05 ADOPT: 6551
10/04/05 ADOPT: 3963
10/03/05 AMEND: 3433
09/28/05 ADOPT: 3591.19

Title 4

02/28/06 AMEND: 4143
01/25/06 ADOPT: 12002, 12004, Appendix A
AMEND: 12100, 12200, 12220, 12300

01/20/06 ADOPT: 1843.6
01/09/06 ADOPT: 1902.5
01/09/06 ADOPT: 1690.1
12/29/05 AMEND: 8070, 8071, 8072, 8073, 8074,
8076
12/21/05 ADOPT: 12359
12/14/05 AMEND: 7075, 7082, 7084, 7092, 7093,
7094, 7098
12/05/05 AMEND: 1977
12/05/05 REPEAL: 1959.5, 1959.6, 1959.7,
1959.8, 1976.5, 1976.7
11/28/05 ADOPT: 7075, 7076, 7077, 7078, 7079,
7079, 7080, 7081, 7082, 7083, 7084,
7085, 7086, 7087, 7088, 7089, 7090,
7091, 7092, 7093, 7094, 7095, 7096,
7097, 7098, 7099 REPEAL: 7000, 7001,
7003, 7004, 7005, 7006, 7007, 7008,
7009, 7010, 7011, 7012, 7013, 7013.
11/28/05 ADOPT: 503, 512, 515, 516, 517, 518,
519, 523, 524 AMEND: 500, 501, 502,
510, 513, 514, 520, 552, 530, 531, 533
REPEAL: 521
11/23/05 AMEND: 4083
11/01/05 ADOPT: 10300, 10302, 10310, 10315,
10317, 10320, 10322, 10325, 10326,
10327, 10335, 10337
10/27/05 ADOPT: 7030, 7031, 7032, 7033, 7034,
7035, 7036, 7037, 7038, 7039, 7040,
7041, 7042, 7043, 7044, 7045, 7046,
7047, 7048, 7049, 7050 AMEND: 7047,
7048 REPEAL: 7049
10/27/05 ADOPT: 9001, 9005, 9006, 9007, 9025,
9027, 9050, 9051, 9052, 9053, 9054,
9055, 9056, 9057, 9058, 9059, 9060,
9061, 9062, 9063, 9064, 9065, 9066,
9067, 9068, 9069, 9070 AMEND: 9020,
9030, 9031, 9032, 9041, 9043
10/12/05 AMEND: 1433

Title 5

02/17/06 ADOPT: 19827 AMEND: 19814,
19814.1, 19851, 19853
01/19/06 ADOPT: 11987, 11987.1, 11987.2,
11987.3, 11987.4, 11987.5, 11987.6,
11987.7
12/30/05 AMEND: 58050, 58164, 58168, 58170,
58172
12/29/05 ADOPT: 4680, 4681, 4682, 4683, 4684,
4685, 4686, 4687 AMEND: 4600, 4610,
4611, 4620, 4621, 4622, 4630, 4631,
4632, 4633, 4640, 4650, 4651, 4660,
4662, 4663, 4664, 4665, 4670, 4910
REPEAL: 4661, 4671
12/12/05 ADOPT: 80033.2
12/07/05 AMEND: 43810

12/06/05	ADOPT: 11963.5 AMEND: 11704, 11963.2, 11963.3, 11963.4, 11963.5, 11963.6	3200.140, 3200.150, 3200.160, 3310, 3400, 3405, 3410, 3415
11/17/05	AMEND: 41301 REPEAL: 41303, 41304	
11/15/05	AMEND: 6111	
11/10/05	AMEND: 19826.1	
10/19/05	AMEND: 11900, 11905, 11915, 11920, 11925, 11930, 11935	
10/14/05	ADOPT: 18092.5 AMEND: 18066, 18069, 18078, 18081, 18083, 18084, 18092, 18103, 18106, 18109, 18110	
10/14/05	ADOPT: 18092.5 AMEND: 18066, 18069, 18078, 18081, 18083, 18084, 18092, 18103, 18106, 18109, 18110	
10/11/05	ADOPT: 18220.2, 18224.2, 18224.4, 18240.5, 18249 AMEND: 18220, 18240, 18248, 18244	
10/11/05	ADOPT: 19850, 19851, 19852, 19853, 19854 AMEND: 19814, 19814.1	
09/28/05	AMEND: 50500	
Title 8		
02/28/06	AMEND: 1644	
02/27/06	AMEND: 3637, 3638, 3639, 3640, 3642, 3646	
02/22/06	ADOPT: 8397.14, 8397.15, 8397.16 AMEND: 8354, 8397.12	
02/14/06	AMEND: 31100	
02/09/06	ADOPT: 296.0 296.1, 2.96.2, 296.3, 296.4 AMEND: 290.1, 291.1, 291.2, 291.3, 291.4, 291.5, 292.0, 293.0, 295.0	
02/09/06	AMEND: 15201, 15300, 15400, 15400.2, 15402.4, 15450.1, 15452, 15454, 15463	
01/27/06	AMEND: 100, 102	
01/27/06	AMEND: 1518	
01/25/06	AMEND: 1635	
12/20/05	AMEND: 3395	
12/14/05	AMEND: 6632(f)	
12/13/05	AMEND: 20299	
12/05/05	AMEND: 4650	
11/22/05	ADOPT: 13694	
11/22/05	ADOPT: 13680, 13681, 13682, 13683, 13684, 13685, 13686, 13687, 13688, 13689, 13690, 13691, 13692, 13693	
09/29/05	AMEND: 9789.11	
Title 9		
01/23/06	AMEND: 3400	
01/19/06	AMEND: 400	
12/30/05	ADOPT: 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130,	
Title 10		
02/28/06	ADOPT: 2713, 2715.5, 2797, 2841.5, 3012.3 AMEND: 2716.5, 2770, 2791, 2792.32, 2795.1, 2846.1, 2846.5, 2846.7, 2849.01, 2930 REPEAL: 2708, 2709, 2821, 2822	
02/27/06	AMEND: 2632.5 (c) (1) (A)	
02/09/06	AMEND: 2699.6600	
01/31/06	ADOPT: 310.100.4, 310.114.4 AMEND 310.101	
01/25/06	ADOPT: 2025, 2026, 2027, 2028, 2029, 2030	
01/23/06	AMEND: 2698.99	
01/23/06	ADOPT: 2592, 2592.01, 2592.02, 2592.03, 2592.04, 2592.05, 2592.06, 2592.07, 2592.08, 2592.09, 2592.10, 2592.11, 2592.12, 2592.13, 2592.14	
01/20/06	AMEND: 2498.6	
12/28/05	AMEND: 2498.5	
12/13/05	AMEND: 2312, 2312.5, 2315	
11/23/05	AMEND: 260.210, 260.211, 1726, 1950.122, 2020	
11/16/05	AMEND: 2699.6600, 2699.6809	
11/15/05	AMEND: 2690.1	
11/03/05	ADOPT: 2698.95.1, 2698.95.11, 2698.95.12, 2698.96, 2698.97, 9698.97.1, 2698.98, 2698.98.1 AMEND: 2698.95	
10/20/05	AMEND: 2318.6, 2353.1, 2354	
10/07/05	ADOPT: 2698.30, 2698.31, 2698.32, 2698.33, 2698.34, 2698.35, 2698.36, 2698.37, 2698.38, 2698.39, 2698.40, 2698.41, 2698.42, 2698.43 REPEAL: Sections 2698.30, 2698.31, 2698.32, 2698.33, 2698.34, 2698.35, 2698.36, 2698.37, 2698.38, 2698.39, 2698.40, 2698.	
09/28/05	AMEND: 2498.4.9	
09/28/05	AMEND: 260.121	
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02/22/06	AMEND: 51.19	
02/09/06	AMEND: 1001, 1015 REPEAL: 1020, 1021	
01/31/06	ADOPT: 64.2	
01/19/06	AMEND: 1005	
01/11/06	ADOPT: 116.2	
01/09/06	AMEND: 999.1, 999.2, 999.3, 999.4	
12/22/05	AMEND: 1005, 1007, 1008, D-1, D-10, D-14	
12/15/05	AMEND: 51.12	
12/01/05	ADOPT: 116.1	
11/22/05	ADOPT: 49.17	

10/24/05	AMEND: 1070, 1081, 1082	12/02/05	AMEND: 18660.5, 18660.6, 18660.10, 18660.20, 18660.21, 18660.22, 18660.36, 18660.37
Title 13		11/30/05	ADOPT: 957.11, 957.12 AMEND: 957
02/22/06	ADOPT: 225.35 AMEND: 225.03, 225.09, 225.12, 225.18, 225.21, 225.42, 225.45, 225.48, 225.51, 225.54, 225.72	11/16/05	AMEND: 913.2 [933.2, 953.2], 913.11 [933.11, 953.11]
02/22/06	AMEND: 345.39, 345.45, 345.56, 345.78	11/09/05	ADOPT: 1038(i) AMEND: 1038.2, 1038(e)
02/15/06	ADOPT: 1971.1	11/02/05	AMEND: 632
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01/31/06	ADOPT: 2023, 2023.1, 2023.2, 2023.3, 2023.4 AMEND: 1956.1, 2020, 1021 REPEAL: 1956.2, 1956.3, 1950.4	10/31/05	AMEND: 180.1
01/30/06	AMEND: 77.05, 77.10, 77.15, 77.16, 77.17	10/26/05	AMEND: 2516
01/18/06	AMEND: 553.70	10/25/05	AMEND: 11900
01/13/06	AMEND: 2467, 2467.1	10/24/05	AMEND: 1251, 1252, 1252.1, 1253, 1254, 1256, 1257
01/12/06	ADOPT: 1875	10/18/05	ADOPT: 17939.1, 17939.2, 17939.3, 17939.4, 17939.5 AMEND: 17930, 17931, 17932, 17933, 17934, 17934.1, 17934.3, 17934.5, 17935, 17935.1, 17935.2, 17935.3, 17935.4, 17935.5, 17935.55, 17935.6, 17936
01/12/06	AMEND: 970	10/13/05	AMEND: 699.5
12/16/05	ADOPT: 253.02 AMEND: 345.16	10/13/05	AMEND: 895, 895.1, 1038, 1038(f)
12/07/05	ADOPT: 2425.1 AMEND: 2420, 2421, 2423, 2425, 2426, 2427, Incorporated Test Procedures	10/12/05	ADOPT: 18459.1.2 AMEND: 18449, 18450, 18451, 18453.2, 18456, 18456.2.1, 18459, 18459.1, 18459.2.1, 18459.3, 18460.1, 18460.1.1, 18460.2, 18460.2.1, 18461, 19462, 18463, 18464, 18466
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10/27/05	AMEND: 2453, 2455		
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03/01/06	AMEND: 851.23	12/15/05	AMEND: 3335
02/23/06	AMEND: 2000, 2090, 2105, 2110, 2401, 2420, 2425, 2430, 2501, 2530, 2535, 2540, 2850	12/05/05	AMEND: 3173.1
02/10/06	AMEND: 895, 895.1, 1038, 1038(f)	11/21/05	ADOPT: 3999.2
02/09/06	ADOPT: 18459.1.2, Forms 203, 204 AMEND: 18449, 18450, 18451, 18453.2, 18456, 18456.2.1, 18457, 18459, 18459.1, 18459.2.1, 18459.3, 18460.1, 18460.1.1, 18460.2, 18460.2.1, 18461, 18462, 18463, 18464, 18466, Penalty Tables 1&2	11/01/05	AMEND: 3287
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12/19/05	ADOPT: 163.1 AMEND: 163, 164	02/24/06	AMEND: 3008, 3031, 3062.1
12/06/05	ADOPT: 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21 AMEND: 4970.00, 4970.01 REPEAL: 4970.02, 4970.03, 4970.04, 4970.05	02/21/06	AMEND: 1833.1, 1870, 1870.1
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		01/12/06	AMEND: 1313.01
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		12/30/05	AMEND: 119.6, 120

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12/27/05	AMEND: 3005	01/17/06	AMEND: 14000
12/15/05	ADOPT: 1399.454 AMEND: 1399.434, 1399.436, 1399.450, 1399.451	01/17/06	AMEND: 12000
12/13/05	AMEND: 3005	12/30/05	ADOPT: 67384.1, 67384.2, 67384.3, 67384.4, 67384.5, 67384.6, 67384.7, 67384.8, 67384.9, 67384.10, 67384.11
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11/30/05	AMEND: 2542, 2542.1, 2547, 2547.1	11/10/05	ADOPT: 51000.6.1, 51000.10.1, 51000.15.1, 51000.20.1, 51000.24.1, 5100.25.1, 51000.25.2, 51000.31, 51000.32, 51000.51, 51000.52, 51000.53, 51000.55, 51000.60, 51051 AMEND: 51000.1, 51000.1.1, 51000.3, 51000.4, 51000.6, 51000.7, 51000.16, 51000.30, 51000
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11/21/05	AMEND: 1397.61(a)		
11/18/05	AMEND: 1364.11		
11/15/05	AMEND: 69, 75.5, 87.5, 89, 89.1, 95, 95.2, 95.3, 95.4		
10/24/05	AMEND: 1399.50, 1399.52		
10/20/05	AMEND: 1922.3		
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10/11/05	AMEND: 7, 7.1, 9, 9.2, 11.5, 13 REPEAL: 14		
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12/29/05	ADOPT: 30105	02/01/06	ADOPT: 3989.3
11/10/05	AMEND: 54355, 56002, 56040	01/20/06	ADOPT: 3939.17
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12/29/05	AMEND: 1620	12/09/05	ADOPT: 3939.20
12/27/05	ADOPT: 1823.4	12/02/05	ADOPT: 3989.2
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10/04/05	AMEND: 1698	11/28/05	ADOPT: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37
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